

Exhibit 8

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10943-mew

4 Adv. Case No. 22-01133-mew

5 - - - - - x

6 In the Matter of:

7 VOYAGER DIGITAL HOLDINGS,

8 Debtor.

9 - - - - - x

10 VOYAGER DIGITAL HOLDINGS, INC.,

11 Plaintiff,

12 v.

13 DESOUSA,

14 Defendant.

15 - - - - - x

16 Adv. Case No. 22-01170-mew

17 - - - - - x

18 THE AD HOC GROUP OF EQUITY INTEREST HOLDERS OF VOYAGER OF

19 VOYAGER DIGITAL LTD.,

20 Plaintiff,

21 v.

22 VOYAGER DIGITAL HOLDINGS, INC., et al.,

23 Defendants.

24 - - - - - x

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Page 2

1 United States Bankruptcy Court
2 One Bowling Green
3 New York, NY 10004
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5 March 2, 2023

6 9:58 AM
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21 B E F O R E :
22 HON MICHAEL E. WILES
23 U.S. BANKRUPTCY JUDGE
24

25 ECRO: JONATHAN

1 HEARING re Adversary proceeding: 22-01133-mew Voyager
2 Digital Holdings, Inc. v. De Sousa Motion to extend
3 automatic stay or, in the alternative, for injunctive relief
4 enjoining prosecution of certain pending litigation against
5 the debtors, directors and officers

6
7 HEARING re Adversary proceeding: 22-01170-mew The Ad Hoc
8 Group of Equity Interest Holders
9 of Voy v. Voyager Digital Holdings, Inc. et al

10
11 HEARING re Pre-trial Conference

12
13 HEARING re Motion to hold the directors personally liable

14
15 HEARING re Joinder to motion by David Stephenson

16
17 HEARING re Objection of the Official Committee of Unsecured
18 Creditors to proofs of claim nos. 11206, 11209 and 11213

19
20 HEARING re Motion for an equity committee

21
22 HEARING re Joinder to motion by David Stephenson

23
24 HEARING re Motions by Alah Shehadeh

25 Transcribed by: Sonya Ledanski Hyde

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I N D E X

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MARK RENZI

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1 P R O C E E D I N G S

2 THE COURT: Sorry for the delay.

3 MS. OKIKE: Good morning, Your Honor. Christine
4 Okike of Kirkland & Ellis on behalf of the Debtors.

5 THE COURT: Good morning.

6 MS. OKIKE: Your Honor, I'm pleased to be before
7 you on behalf of Voyager seeking confirmation of its Chapter
8 11 plan. Just as a matter of process, Your Honor, with the
9 Court's permission, I'd like to lay out how we'd like to
10 proceed today.

11 We propose starting with plan confirmation,
12 followed by the various motions filed by pro se creditors,
13 and Your Honor, in terms of the combined hearing I'd like to
14 make a few opening remarks if you permit me and will save
15 time for both the legal argument after presenting evidence.

16 THE COURT: Okay.

17 MS. OKIKE: After opening remarks, I propose then
18 to move to the evidence. We would seek to admit the four
19 declarations we filed in support of confirmation of the plan
20 and will offer up the witnesses for cross and then we would
21 move into argument if that's okay with Your Honor.

22 THE COURT: Okay. I have a number of questions
23 for the parties and the objectors before we have evidence,
24 just to clarify what it is we are going to need evidence on
25 so that we're -- make sure that to the extent we need

1 evidence, we get it. I also think before we do anything
2 else, I do have a pending motion for me to recuse myself. I
3 ought to deal with that first, I think.

4 MS. OKIKE: Understood, Your Honor.

5 THE COURT: Is Mr. Shehadeh on the phone?

6 All right. He doesn't appear to be on the phone.
7 I've reviewed the motion which essentially says somewhat
8 correctly as a legal matter that if I have some reason that
9 gives rise to bias or lack of impartiality on my part that I
10 should recuse myself. I don't disagree with that legal
11 principle, but I don't believe that I have anything that
12 amounts to bias or a lack of impartiality in dealing with
13 this matter.

14 I understand Mr. Shehadeh is unhappy with one or
15 maybe more of my prior rulings in the case, but that's not
16 an indication of bias or lack of impartiality. So I'll deny
17 the motion to recuse myself and we can proceed with the rest
18 of the hearing.

19 MS. OKIKE: Thank you, Your Honor. Your Honor,
20 I'd just like to highlight a few points at the outset. Your
21 Honor, the plan has garnered overwhelming support from all
22 of the voting classes. Customers voted to approve the plan
23 with 97 percent in number or 59,183 customers out of 61,300
24 customers voting and 98 percent in amount representing
25 approximately 541 million out of 552 million of those

1 actually voting.

2 And the plan has the support of the Committee of
3 Unsecured Creditors. General Unsecured Creditors also voted
4 overwhelmingly to accept the plan with approximately 75
5 percent in number and 100 percent in amount of OpCo general
6 unsecured claims, approximately 80 percent in number and 100
7 percent in amount of HoldCo general unsecured claims and
8 approximately 90 percent in number and 100 percent in amount
9 of TopCo general unsecured claims actually voting, voting in
10 favor.

11 Your Honor, the estimated recoveries are detailed
12 in the disclosure statement which was based off of crypto
13 prices as of December 19th, 2022, and the value of the
14 Debtors' crypto portfolio has increased significantly since
15 that time. As of February 27th, we anticipate that
16 customers will receive an estimated 73 percent recovery
17 under the sale transaction before accounting for any
18 recoveries on account of valuable claims that will remain
19 with the estate including claims against 3AC, Alameda, and
20 FTX.

21 THE COURT: And if Alameda and FTX were to succeed
22 on their preference, what would the recovery be?

23 MS. OKIKE: Your Honor, if Alameda, FTX were to
24 succeed on their preference, the recovery would be reduced,
25 I believe to 48 percent under the sale transaction.

1 THE COURT: Am I remembering right that that's --

2 MS. OKIKE: And Your Honor, that --

3 THE COURT: That's higher than what you projected
4 as the recovery originally --

5 MS. OKIKE: We projected 51 percent under the
6 disclosure statement.

7 THE COURT: Okay.

8 MS. OKIKE: We also obviously have cross claims
9 against Alameda and release --

10 THE COURT: Right.

11 MS. OKIKE: -- substantial amount of collateral in
12 connection with the repayment of those loans, and so we
13 don't believe the full amount, even if they were successful,
14 would be an administrative claim.

15 THE COURT: I understand. Okay, sorry, I
16 interrupted you.

17 MS. OKIKE: No. So Your Honor, there's almost
18 \$1.4 billion of value that is proposed to be distributed
19 under the Debtors' plan and there is much at stake for the
20 company and their customers today. Your Honor, our
21 understanding for Binance.US is that over 167,000 customers
22 which represent approximately 75 percent of the value on the
23 Debtors' platform have already signed up for the Binance.US
24 platform, representing approximately 1.2 billion in customer
25 claims.

1 Your Honor, we understand there has been a lot of
2 frustration expressed by a handful of customers, but having
3 lived with the company through this process, I can tell you
4 that the management team and employees have steadfastly
5 sought to do right by customers throughout these cases.
6 Your Honor, I won't recite the past but suffice it to say
7 that the Debtors were poised to exit Chapter 11 and
8 distribute value to stakeholders in early December, just
9 five months after commencing these cases, before FTX's
10 catastrophic collapse.

11 While we were shocked to witness FTX's collapse
12 and to subsequently learn that FTX appears to have been a
13 massive fraud, the Debtors and their advisors quickly
14 pivoted to evaluate alternative third-party transactions as
15 well as the liquidation transaction whereby the Debtors
16 would distribute crypto and cash to creditors on their own.

17 We spent about a month negotiating with parties
18 who expressed interest in the Debtors' assets and ultimately
19 determined that the bid put forth by BAM Trading Services
20 Inc. or Binance.US represented the best path forward to
21 maximize value. Your Honor, the Debtors' value the sale
22 transaction as of February 27th at approximately \$1.363
23 billion, which is comprised of \$1.34 billion of
24 cryptocurrency on the Debtors' platform plus an additional
25 \$20 million of up-front consideration paid by Binance.US.

1 Your Honor, the Debtors believe that the sale
2 transaction provides the most value currently available for
3 the Debtors' assets and ultimately their stakeholders and
4 the fastest route to distributing such value to customers.
5 The sale transaction also provides the most tax efficient
6 path forward as Binance.US will enable users to access 100
7 percent of cryptocurrency coins on the Debtors' platform.

8 It includes the reimbursement by Binance.US of up
9 to 15 million of the Debtors' expenses in certain
10 circumstances and provides a 10 million reverse termination
11 fee payable to the Debtors by Binance.US to compensate the
12 Debtors' estates in the event they cannot consummate the
13 transaction. The sale transaction also provides for certain
14 other protections which are designed to minimize risk and to
15 protect customer distributions.

16 Your Honor, the sale transaction will effectuate
17 the expeditious sale of the Debtors' customer accounts to
18 Binance.US, provide a meaningful in-kind recovery to
19 creditors on the shortest timeline practical, and allow for
20 an efficient resolution to these Chapter 11 cases.
21 Following consummations of the sale transaction, the plan
22 provides for the orderly winddown of the debtor's estates.
23 Importantly, Your Honor, the plan allows the Debtors to
24 toggle to the liquidation transaction if the Debtors
25 determine in their business judgment that the sale

1 transaction no longer is the best option.

2 Your Honor, the plan is a significant achievement.
3 It consensually resolves a number of highly complex issues
4 in a manner that is overwhelmingly supported by the voting
5 classes. The plan is in the best interests of the Debtors'
6 estates, is the best alternative for stakeholders, and
7 should be confirmed.

8 Your Honor, we believe we have resolved the
9 objections of the FTC, the Ad Hoc Group of Equity Holders,
10 and the Bank of New York Mellon. Only eight customers out
11 of more than one million and whose claims in aggregate total
12 approximately 500,000, objected to the plan and we will
13 address those objections in turn, but our view is that they
14 do not present obstacles to confirmation.

15 The remaining objections, Your Honor, are the SEC,
16 New York, Texas, New Jersey, and the U.S. Trustee. Your
17 Honor, it's pretty unusual in my experience to have
18 objectors that are not going to put forth any evidence. We
19 have a number of governmental entities -- the SEC, New York,
20 Texas, and New Jersey -- that have been complaining about
21 Binance.US and the sale transaction since the conditional
22 disclosure statement hearing back in January, but they have
23 taken no discovery and put forth no evidence in support of
24 their statements.

25 Uncontroverted evidence will be submitted today

1 that the sale transaction or liquidation transaction if
2 applicable is in the best interests of the estate; that
3 creditors will receive more under the plan in either the
4 sale transaction or the liquidation transaction than in a
5 Chapter 7 liquidation; that customers in supported
6 jurisdictions and unsupported jurisdictions are receiving
7 equal treatment; and that the Debtors' releases are a sound
8 exercise of their business judgment; and importantly, Your
9 Honor, that the plan is feasible.

10 You'll have the testimony of Mr. Mark Renzi, a
11 managing director of Berkeley Research Group and financial
12 advisor to the Debtors regarding the primary confirmation
13 requirements for the plan, the Debtors' liquidation
14 analysis, the plan's feasibility, and the limitations,
15 risks, and costs with endeavoring to make in-kind
16 distributions to customers in unsupported jurisdictions.

17 The Debtors will put forth the testimony of Mr.
18 Brian Tichenor, a managing director of Moelis and Company
19 who will speak to the Debtors' sale process, the sale
20 transaction and liquidation transaction, and that the plan
21 was proposed in good faith.

22 The Debtors will offer in evidence the testimony
23 of Mr. Timothy Pohl, independent director and member of the
24 special committee of the board of Voyager Digital LLC,
25 regarding the special committee investigation, the special

1 committee's conclusions, and the D&O settlement and in
2 support of the Debtor releases. And the Debtors will also
3 offer into testimony, the testimony of Mr. -- sorry -- Ms.
4 Leticia Sanchez, a director at Stretto, who will speak to
5 the voting report.

6 Your Honor, while we expect some of the objectors
7 to cross the witnesses, there's absolutely no evidence in
8 support of their objections. So what are they asking the
9 Court to do? They're asking you to pick apart the plan
10 including the sale transaction to say let's just modify some
11 parts they don't like and we'll go with the rest of them.
12 But that's not the plan the Debtors are prosecuting. The
13 Debtors have exclusivity.

14 We've proposed this plan in good faith and it has
15 been resoundingly accepted by creditors and the objectors
16 can't pull out specific parts they don't like, especially in
17 this case where we have a highly complex transaction that
18 will need to be executed in either the sale transaction or
19 the liquidation transaction scenarios.

20 Your Honor, we'll have much more legal arguments
21 at the back at the end of the hearing, but wanted to just
22 provide these preliminary comments.

23 THE COURT: Okay. Can I just ask for some
24 clarifications of some things before I ask some other
25 questions? I see that you filed stipulations with FTX and

1 Alameda and also last night, a stipulation with various
2 governmental entities. Are approvals of those contemplated
3 today or at a different time and are they conditions to
4 confirmation or not?

5 MS. OKIKE: Your Honor, they -- we are not seeking
6 approval of either of those today. The stipulation with the
7 governmental entities is purely consensual. They are
8 agreeing to two things. They're agreeing, one, at the --
9 their claims that they had to the extent that they are
10 allowed at the OpCo entity, will be subordinated to those
11 general unsecured creditors at that entity and also account
12 holders. And they're also agreeing that the claims that
13 they filed at the Top entity and the HoldCo entity, to the
14 extent that they are allowed and they receive a recovery on
15 account of those claims, will be contributed to the benefit
16 customers.

17 THE COURT: Isn't that gifting or a Jevic issue to
18 contribute them only to that particular class, resulting in
19 different recoveries for that class and the general
20 unsecureds?

21 MS. OKIKE: Your Honor, they're entitled to those
22 recoveries and I think they're entitled post effective date
23 to give the recoveries to whoever they would like to.

24 THE COURT: Second Circuit says no. It says no
25 gifting, doesn't it? Says if it's given up for the benefit

1 of the estate, it's got to be distributed in accordance with
2 the bankruptcy priorities. If you think otherwise, just
3 alerting you to -- I'm not going to rule on it today, but
4 you need to address that as an issue for me.

5 MS. OKIKE: Understood, Your Honor.

6 THE COURT: Okay. So the -- I saw that there's an
7 amendment to the asset purchase agreement to preserve more
8 preference claims and also as I understand it to make clear
9 that Vermont is not going to be treated as an unsupported
10 jurisdiction; is that correct?

11 MS. OKIKE: That's correct, Your Honor. We have
12 reached an agreement with Vermont and we are hopeful that
13 there may be other states as well of the remaining
14 unsupported states who sign on to that, but Vermont will not
15 be considered an unsupported jurisdiction.

16 THE COURT: You continue to treat Texas as having
17 objected, but I thought from reading the Texas submission
18 that they thought that you didn't need any more regulatory
19 approval to do the -- at least the additional distributions
20 that you contemplate.

21 MS. OKIKE: Your Honor, that's not exactly true.
22 In Texas, they believe that stable coins are securities and
23 so they would, I believe to the extent that stable coins
24 were traded, which would potentially happen to the extent
25 that people receive distributions, they consider that to be

1 a violation. And so, although they have said you can make
2 the distributions, there's not the ability, my understanding
3 is on the Binance.US platform, to restrict trading to
4 specific types of cryptocurrency and so there is not the
5 ability to effectuate what Texas was requesting.

6 Although we're still in discussions with them and
7 hopefully to get to a conceptual resolution similar to
8 Vermont, it's going to require a more creative solution than
9 what they had proposed.

10 THE COURT: And where does Hawaii stand in all of
11 this? They were unsupported jurisdiction. I haven't heard
12 anything from them.

13 MS. OKIKE: Your Honor, our understanding is that
14 Hawaii, there have been productive discussions with Hawaii
15 and they are likely to follow Vermont. They were waiting to
16 kind of, my understanding, is to see the resolution with
17 Vermont, but we anticipate and I know Binance can speak to
18 this a little bit better. We anticipate that they will sign
19 on to that same structure.

20 THE COURT: Okay. And where do things stand as to
21 how the VGX token will be treated?

22 MS. OKIKE: So Your Honor, the VGX token will be
23 treated like all of our coins on the Debtors' platform.
24 Those holders will be entitled to their pro rata
25 distribution of VGX which they will be able to, you know,

1 withdraw from the Binance platform. Binance.US has agreed
2 to submit the VGX token through it's, you know, internal
3 processes to see if it's approved to be listed on the
4 exchange. We obviously don't know what the outcome of that
5 will be, but just like any other customer, VGX holders will
6 receive their pro rate distribution, will be able to remove
7 that distribution from the platform.

8 THE COURT: So if I -- and I always want to double
9 check my understanding of how this works. Customers' claims
10 are based on values of tokens as of the filing date.

11 MS. OKIKE: Correct.

12 THE COURT: Customers' distributions will be in
13 kind, but based on current dollar values of the various
14 coins.

15 MS. OKIKE: Correct.

16 THE COURT: And so that everybody -- what
17 everybody receives may be in different form, will be
18 calculated as being the same proportion of their prepetition
19 claim. So how will VGX be valued for purposes of
20 distribution?

21 MS. OKIKE: It will be valued the same as all
22 other coins. So it has a price. It's traded.

23 THE COURT: What is the current VGX price?

24 MS. OKIKE: Thirty-three cents, Your Honor.

25 THE COURT: And if Binance does not -- what's

1 that?

2 MS. OKIKE: Thirty-nine cents, Your Honor.

3 Apologies.

4 THE COURT: It's all right. If Binance does not
5 do what you hope it does to allow for the trading of VGX on
6 its platform, what happens to VGX?

7 MS. OKIKE: Yes. So there are smart contracts,
8 Your Honor, which underline the token and is really what
9 provides utility to the token. Those are not being sold to
10 Binance.US in the transaction. We are actively speaking
11 with third parties who are interested in purchasing the
12 smart contracts and I anticipate we likely will have a
13 transaction at some point for somebody who intends to
14 provide utility to the token going forward.

15 And so the value of the VGX token post-closing
16 will really be, you know, determined by the utility of the
17 token. I will say, you know, some of this stuff isn't
18 intuitive. I mean, we've seen huge rises in the price of
19 VGX over the past month or so, so you know, utility or no,
20 we don't really know what the price will be going forward.

21 THE COURT: Okay. I see there are changes that
22 have been made over the last week or so. Winddown entity
23 has been changed to the winddown Debtor. You'll have a plan
24 administrator now, and I see the winddown Debtor is actually
25 going to be HoldCo, not OpCo?

1 MS. OKIKE: That's correct, Your Honor. I mean,
2 these are changes that are really designed to preserve tax
3 attributes and make sure that the structure is as tax
4 efficient as possible. It's not designed to kind of change
5 the rights of any creditors with respect to distributions or
6 with respect to the intercompany claims disputes that are
7 unresolved.

8 THE COURT: Okay.

9 MS. OKIKE: And Your Honor, I didn't answer your
10 question with respect to FTX Alameda. We're not going
11 forward with that today. We filed that motion, I believe
12 it's -- don't know the date it's set for hearing, but in
13 accordance with the rules, we provided the appropriate
14 notice. We don't believe that's a bar to confirmation. It
15 really just deals with the value of distributions under the
16 plan.

17 THE COURT: Okay. All right. Thank you very much
18 for those clarifications. Before we actually get to
19 evidence, I just have some questions for some of the
20 objectors, okay?

21 MS. OKIKE: Yes, Your Honor.

22 THE COURT: I want to start with the SEC. Are
23 they here?

24 MR. WARREN: Your Honor, this is Jon Warren, pro
25 se creditor. Had a quick question for you.

1 THE COURT: Go ahead. What is your question? I'm
2 sorry, whoever just said they wanted to ask a question, what
3 is your question?

4 Okay. We'll go back to my questions for the SEC.
5 You are?

6 MR. UPTEGROVE: Good morning, Your Honor. William
7 Uptegrove on behalf of the United States Securities and
8 Exchange Commission and with me is my colleague Therese
9 Scheuer.

10 THE COURT: Good morning. You've submitted an
11 objection that has a couple of parts and one part is that
12 you think that the contemplated transfers of
13 cryptocurrencies by Voyager may be illegal. I'm sort of
14 unaccustomed to getting objections that something may be
15 wrong as opposed to either is or isn't. So what exactly is
16 your position here? Are you saying that it is wrong or that
17 you don't know?

18 MR. UPTEGROVE: We're saying, Your Honor, that
19 there are risks inherent in transactions in any crypto asset
20 transactions. There are fact specific issues that go into
21 that. They're highly complex. And those risks are always
22 going to be apparent. On the issue of the securities laws,
23 the SEC is not taking a position on whether any of the
24 transactions in the plan are violative of the federal
25 security laws. We can't take a position at this point.

1 The SEC is a deliberative body, Your Honor and its
2 processes a nonpublic one by federal law. And that process
3 is protected by a number of statutes. Just because private
4 litigation --

5 THE COURT: Deliberative is one thing. Absent is
6 another. I mean, how long has Voyager been around? How
7 long has it been selling the tokens that it's been selling?
8 How long has Binance been around? Come here and tell me
9 that you don't have any idea, but that I should stop
10 everybody in their tracks because you might have an issue
11 that you haven't gotten around to looking at; it's kind of a
12 weird objection, isn't it?

13 MR. UPTEGROVE: I don't think so, Your Honor. I
14 think that this happens. There's also the CFIUS review,
15 which is something similar, Your Honor. Do all regulatory
16 bodies have to stop everything they're doing when a private
17 party enters into a lawsuit or files a bankruptcy plan and
18 have to come to Court --

19 THE COURT: Well, it's hardly the bankruptcy
20 that's triggered your potential review of this, isn't it?
21 You're claiming that there might be things going on here for
22 years that may be in violation of the securities laws.
23 Deliberative is one thing. What have you done? Have you
24 looked at any of this? You're not willing to take a
25 position on any of it?

1 MR. UPTEGROVE: No, Your Honor, we're not taking
2 any position on whether or not any transaction -- there are
3 lots of transactions. There's the rebalancing transactions
4 and there's the sale transactions and then there's going to
5 be transactions after that. They all have, I think -- I
6 don't recall the exact number, but there's something like
7 over 100 cryptocurrencies or crypto assets, I believe on the
8 -- were on the Voyager exchange.

9 All of those have different attributes, they all
10 have to be viewed independently. And so whether something
11 is a security or not is a complex issue. There's no facts
12 before the Court today about any of those issues, nor does
13 there need to be because it's not, you know, whether or
14 something is a compliant, whether the plan or transactions
15 contemplated in the plan are compliant with non-bankruptcy
16 law is not the issue that needs to be decided today. At
17 least the SEC doesn't need to provide a position. It's the
18 -- and disclose its deliberative process in an open Court.

19 The issue today is whether or not the plan is
20 confirmable. That's a burden that the Debtor has and we at
21 the very least seek full disclosure about possible risks
22 attendant to the transactions contemplated under the plan.

23 THE COURT: But you've also argued that the Debtor
24 has to somehow prove a negative here, has to prove that
25 every one of the transactions, every one of the

1 cryptocurrencies that it might be selling do not involve
2 transactions in securities with no guidance from you at all
3 as to what might constitute a security, which coins they
4 have to do that proof on, why you think any of them are
5 securities, and no indication at all of what legal or
6 factual issues the testimony and argument today ought to
7 address. How is that a proper objection?

8 MR. UPTEGROVE: Again, Your Honor, we are raising
9 the issues. There are risks attendant to the transactions
10 in the plan. We are in no position to be able to provide
11 the facts you just talked about or issue an advisory opinion
12 on whether or not any particular transaction complies with
13 the security laws.

14 THE COURT: I'm not asking for your -- an advisory
15 opinion. I'm asking you to either object or not object.
16 What you've said is not really an objection. It's sort of
17 like, hey, Judge, we don't know, so you shouldn't do
18 anything. That's essentially what you've said.

19 MR. UPTEGROVE: And it's incumbent upon the
20 Debtors to explain and disclose the potential risks of what
21 would happen.

22 THE COURT: You know, when I have a regulator
23 who's charged with protecting investors, they either think
24 there's an issue or there's not. I expect them to come in
25 and tell me there is or there isn't. I don't expect them to

1 come in here and say the Debtor should prove the impossible.

2 The Debtor should somehow, without any guidance
3 from you as to what issues you think the Debtor needs to
4 prove, the Debtor should somehow prove that nothing that's
5 going on here raises an issue under the securities laws
6 without even a contention by anybody in the room, or at
7 least not from you, that what the Debtor is doing does
8 violate the securities laws. I just don't get how that's
9 proper or how you would expect anybody to be able to comply
10 with what you're asking.

11 What is it you -- how is the Debtor supposed to do
12 what you're asking them to do? Are they supposed to give me
13 a tutorial on all aspects of every coin that -- in which the
14 Debtors -- that the Debtors might be selling here and try to
15 think about every single possible argument you might make as
16 to each individual coin, even though you don't have
17 arguments about those coins? Is that what you're asking us
18 to do today?

19 MR. UPTEGROVE: No, Your Honor, but we do believe
20 there should be more disclosure than there is in the current
21 disclosure statement and plan.

22 THE COURT: There is disclosure about regulatory
23 risks, you know, and so, I don't know, you haven't been
24 specific. All you've said vaguely is that there might be an
25 issue. Well, that's pretty much what the Debtor said. I

1 don't know how they can be any more specific when you're
2 standing here and you're not willing to be any more
3 specific.

4 MR. UPTEGROVE: Your Honor, again, we can't take a
5 position on whether or not a specific transaction is
6 violative of the security laws. As we said, there may be
7 risks. There are risks for sure and there may be violations
8 of the securities laws. It's just not something that we
9 believe is, you know, we need to opine on here.

10 THE COURT: But you've --

11 MR. UPTEGROVE: The burden is not on us.

12 THE COURT: But you have not just raised this as a
13 disclosure issue. You have said that this somehow affects
14 the feasibility of the plan and that I should deny
15 confirmation. I should deny confirmation essentially
16 because you might have some unspecified issue about which
17 you cannot take any position today. That's essentially what
18 you've asked me to do. How does that make sense?

19 MR. UPTEGROVE: We've also said the same thing
20 about the CFIUS review is that's another thing that's out
21 there that is very much like the potential violation of the
22 securities laws that could impact the plan, the consummation
23 of the plan. There's no disclosure about what will happen
24 if there's a negative -- I have not seen disclosure, what
25 would happen if the plan closed or the -- excuse me, the

1 deal closed and there was a subsequent negative finding by
2 CFIUS. I think it's a similar thing.

3 THE COURT: I don't think it's similar at all.
4 CFIUS review is triggered by this specific transaction.
5 Your objection is based on stuff Voyager has been doing for
6 years and stuff that Binance has been doing for years. I
7 mean, are you standing here telling me that the SEC is going
8 to challenge whether the Debtor is selling securities?

9 MR. UPTEGROVE: Not today, Your Honor, but there's
10 --

11 THE COURT: Are you telling me that you're going
12 to challenge whether Binance is acting as a securities
13 broker?

14 MR. UPTEGROVE: Your Honor, with respect to
15 Voyager, the Voyager entities, we've disclosed that there is
16 an ongoing investigation involving Voyager. So that's an
17 issue that has yet to be determined. Again, we're a
18 deliberative body. There's no reason, no law that would
19 require us to -- in fact, there's laws to the contrary that
20 you know, that's a nonpublic process.

21 And as to other entities, you know, that's just
22 not before the Court. That's not one of the issues that
23 needs to be, you know, that the government has the burden to
24 show.

25 THE COURT: Well, but you've said in your papers,

1 it's an issue that has to be proved. And yet at the same
2 time, you want to just say the government takes no position.

3 MR. UPTEGROVE: Your Honor, we're not in a
4 position to -- you said earlier that, you know, what could
5 the Debtor say. They could say all types of things to prove
6 or to show that notwithstanding whether there is a violation
7 or there is not, that the plan is feasible. You could put
8 on evidence about how you would exactly do it, what
9 witnesses and what those witnesses would say and what
10 exhibits. I cannot tell you that's not the SEC's role.
11 That's the role of the Debtor to come in and say, Your
12 Honor, this is the test for feasibility.

13 On the one hand, if there's no action by the SEC
14 in the future, then there's no action by the SEC in the
15 future. If there is one, this would be the possible
16 ramifications and notwithstanding that, the plan is
17 feasible.

18 THE COURT: The argument about whether transactions
19 in particular cryptocurrencies are transactions in
20 securities, are you making that argument only as to the
21 rebalancing trades or as to the distributions that the
22 Debtor would make under the plan?

23 MR. UPTEGROVE: I think that that's to be
24 determined and any transaction in an asset that is a
25 security, you know, would fall under the ambit of the

1 securities laws.

2 THE COURT: Why wouldn't Section 1145 of the
3 Bankruptcy Code apply to the distributions contemplated
4 under the plan?

5 MR. UPTEGROVE: I don't think that Debtor is
6 invoking 1145. I don't think it would be -- they're not
7 issuances. I don't believe 1145 applies, Your Honor.

8 THE COURT: You don't think any of these are --
9 the Debtor would be the issuer of the security?

10 MR. UPTEGROVE: I don't think they are. No, Your
11 Honor. I think these are --

12 THE COURT: But in your footnote, that's exactly
13 what you suggested as to VGX. My colleague, Therese Scheuer
14 may want to address that.

15 MS. SCHEUER: Good morning, Your Honor. For the
16 record, Therese Scheuer for the Securities and Exchange
17 Commission. Your Honor, I don't believe the Debtors are
18 seeking 1145 treatment for any of the distributions for the
19 rebalancing. It has not been cited in their papers and it
20 has not been briefed, to my knowledge.

21 THE COURT: Well, do the Debtors have to invoke
22 it? Doesn't it just automatically apply?

23 MS. SCHEUER: There has to be showing it is a
24 limited exemption from registration and there are particular
25 requirements that must be met.

1 THE COURT: Well, that's exactly the argument you
2 made, that VGX was somehow an unregistered security of the
3 Debtors. So why wouldn't 1145 apply to that?

4 MS. SCHEUER: Your Honor, it hasn't been briefed
5 and I don't believe that ----

6 THE COURT: What hasn't been briefed?

7 MS. SCHEUER: The 1145 issue has not been briefed.
8 It's not -- I don't believe it's ripe for discussion today
9 and I don't believe the Debtors included it in their papers.

10 THE COURT: All right. As to whether Binance is
11 operating as a securities broker, are you saying that in
12 performing the transactions contemplated by this plan,
13 Binance might be operating as a securities broker or are you
14 saying that it might be engaged in other activities that
15 make it a securities broker?

16 MR. UPTEGROVE: Your Honor, other than what we
17 said in our papers, we're not in position to expound upon
18 what a particular entity, you know, may or may not have done
19 and what the consequences legally are regarding that
20 conduct.

21 THE COURT: Even if Binance were engaged in some
22 other activity in some other context that arguably made it a
23 securities broker, why would that affect its ability to do
24 what we're contemplating here?

25 MR. UPTEGROVE: You know, as a hypothetical, Your

1 Honor, if it were found to be a unregistered exchange, there
2 would be consequences to -- I'm not familiar with all the
3 consequences, but it would -- you know, potentially there's
4 registration. I mean, there's -- and I don't know the
5 answer to that because I'm -- although I work for the SEC, I
6 am not an expert in that area. I think that the Debtor has
7 hired legions of lawyers and they probably do have experts
8 in that area and they could address the issue as if, Binance
9 worst case scenario, Binance is found to be a unregistered
10 exchange, these would be the consequences and it wouldn't
11 have an impact on the plan.

12 THE COURT: Those people would just be opining
13 about what you would likely do and what you would likely
14 insist on. How can they know more than you do about that?

15 MR. UPTEGROVE: I don't think it's a matter of
16 knowing, Your Honor. It is facts and circumstances and I
17 mean, I would think, you would do the same thing -- and you
18 know, the tax realm is, you know, the Debtor makes
19 determinations about tax issues and then, you know, post
20 plan, the IRS or a Court may have different views than the
21 Debtor, but that doesn't preclude the Debtor to the extent
22 there is an issue that relates to the code or confirmation
23 of addressing potential tax issues. We just addressed tax
24 issues --

25 MR. SHEHADEH: Judge Wiles, I'm here to ask

1 (indiscernible), Your Honor.

2 THE COURT: Who was talking there?

3 MR. SHEHADEH: I believe, Your Honor, you
4 addressed me at 10:01. I was having technical issues. Now
5 I'm able to speak.

6 THE COURT: Okay, but just wait. We're in the
7 middle of something else at the moment, okay? All right,
8 we're talking to the attorney for the SEC. So you couched
9 these objections in terms of feasibility. Feasibility is
10 just a shorthand way of referring to the provisions of
11 Section 1129(a)(11) which requires a showing that the plan
12 is not likely to be followed by the liquidation or the need
13 for further financial reorganization of the Debtor unless
14 such liquidation or reorganization is proposed in the plan.

15 So in this case, there is a toggle feature in the
16 plan under which the Debtors will switch to another approach
17 if the Binance deal can't close within four months. So even
18 if you're right about all your objections and you surprise
19 us all with regulatory actions that after confirming a deal,
20 we suddenly can't close by -- that wouldn't actually be a
21 feasibility issue, would it? It would just mean the Debtor
22 would talk to the other plan.

23 MR. UPTEGROVE: It may, Your Honor, but I think
24 there would still need to be at this juncture disclosure
25 about the inherent risks of the transaction. And to the

1 extend -- and these issues would not go away. Obviously
2 that's the point I just made, but as to feasibility, you
3 know, except to the extent there were parts of the self-
4 degradation plan that were, you know, potentially violative
5 of the law and the --

6 THE COURT: Well, on disclosure, I read -- reread
7 the disclosure statement and it does say that there are
8 risks that we don't know what's going to happen with
9 regulation, that there is increasing regulation that could
10 affect the ability to close the deal. I don't see how I
11 could in hindsight, say that the Debtors had to be more
12 specific about those risks given what you're telling me
13 today.

14 MR. UPTEGROVE: It also may be the case, Your
15 Honor, that the plans confirm, you know, in a hypothetical
16 world, plan is confirmed, the deal closes, and then, you
17 know, again, we're not in a position to just to say this is
18 hypothetical, but then there's some action by the SEC or
19 another regulator or government body that has some impact
20 that would -- so the toggles over feature is over.

21 They've toggled -- it toggles to the restructuring
22 plan and then some action happens that requires the, you
23 know, an additional reorganization and additional
24 liquidation because of the place the Debtor finds itself.
25 So the toggle, you know, I'm not saying that -- I think part

1 of our point is, it's not as if this all goes away at
2 confirmation. These are things that will continue and they
3 may continue after the toggle feature is no longer an
4 option.

5 THE COURT: Well, if the toggle feature is no
6 longer an option, it would only mean that the Binance deal
7 had already closed. So how does any of that affect the
8 feasibility of the plan if something were to come up at a
9 later stage?

10 MR. UPTEGROVE: I think at the very least, it
11 would have ramifications for creditors. And I think the
12 test is -- maybe I'm misremembering it -- but it's that,
13 that under 1129, that for feasibility that the restructuring
14 will not be followed by, you know a further need for
15 liquidation. That could still happen after the closing.

16 THE COURT: Of this Debtor?

17 MR. UPTEGROVE: Potentially, if --

18 THE COURT: This debtor will have already
19 liquidated. Okay. You also asked about whether the
20 disclosure statement has sufficient information about
21 Binance's controls, custody arrangements, and finances. The
22 SEC, the U.S. Trustee, Texas, and New York all made similar
23 arguments in that regard. And you argued that you think we
24 need to know if third parties have access to the keys, what
25 safeguards there are to stop assets from being transferred

1 off the Binance.US platform, and a declaration from Binance
2 about its internal controls. Are the Debtors going to offer
3 evidence on any of these points today? Yes?

4 MR. UPTEGROVE: We intend to, Your Honor, yes.

5 THE COURT: Do you have any evidence on these
6 points that you want -- or plan to offer today?

7 MR. SLADE: No, Your Honor, but it's not our
8 burden.

9 THE COURT: You know, maybe not, but it's a
10 disclosure issue and I'm absolutely shocked, I have to say,
11 that a regulator would come in and say, I'm charged with
12 regulatory authority over these things. These are reasons
13 that I have concerns because they're within my regulatory
14 jurisdiction, but I've done nothing. I have nothing to
15 offer to you except questions, and my excuse for that is
16 that it's somebody else's burden in the context of
17 confirmation. That's incredible. Absolutely incredible.

18 So I'll hear whatever evidence the Debtor has, but
19 you know, I get the feeling that this objection has been
20 made as a kind of cover yourself, so you can say later that
21 well see, we raised these issues, but you haven't really.
22 You've done nothing. You know, I'm trying to do the right
23 thing here. I would like to do the right thing. I don't
24 want to subject customers to any risks. They've already
25 been through a bankruptcy. I don't want to put them through

1 any more issues.

2 But to stand here and tell me, Judge, you know,
3 I'm not going to tell you what we're going to do, but it's
4 your job and the Debtors' job to kind of guess and to make
5 predictions, and you know, you better be right about it;
6 that's really not helpful.

7 Okay. All right. So I'll hear whatever evidence
8 we have on that. I have to say that the disclosure
9 objections on this point, I'll hear argument later, but they
10 don't really strike me as really disclosure issues. They
11 strike me as substantive objections kind of masquerading as
12 disclosure issues. They are more in the lines of not so
13 much that the Debtor knows something that the Debtor didn't
14 reveal as that well, the Debtor should be getting more
15 information from Binance and should be getting more control
16 information from Binance, and then should be disclosing it.

17 Well, that's really not so much an issue about the
18 disclosures the Debtors have made as a question of, should
19 the Debtors be doing more in the interests of customers
20 before we go forward with the transaction. So I'll hear
21 what people have to say about it. I'm concerned about these
22 points, too. Anybody who's been following what's happening
23 in this industry, who sees what happened with FTX, who sees
24 the examiner's report about what was going on in Celsius,
25 you have to be worried.

1 Okay? I understand the concerns, but at the same
2 time, I'm in a position where we don't usually assume that
3 buyers are bad actors. We don't usually assume that people
4 are bad just because other people in an industry are bad.
5 So if there are reasons to be concerned here and worried, I
6 need to know specifics. So kind of telling me, gosh,
7 there's lots of problems in this industry, so you better
8 figure it out, Judge, without offering any help, is really
9 disappointing.

10 Okay. So as to the United States Trustee, I just
11 want to make -- thank you. As to the United States Trustee,
12 you had an objection on disclosure about how the
13 cryptocurrencies will be held before they're distributed.
14 The Debtors, I thought we had resolved this when I -- at the
15 time we approved the asset purchase agreement and the
16 Debtors have made responses at Pages 78 through 79 with
17 their memorandum in support of confirmation. Does that
18 answer your questions or do we need anything further on
19 that?

20 MR. MORRISSEY: Your Honor, Richard Morrissey for
21 the U.S. Trustee, and before I begin, it's nice to see Your
22 Honor in person after three years. The U.S. Trustee's
23 objection generally had to do with disclosure in the
24 disclosure statement itself so that the creditors could be
25 fully informed about what they were signing onto with the

1 Binance transaction.

2 One of those aspects as Your Honor mentioned had
3 to do with the protection of the cryptocurrency. What the
4 disclosure statement said was essentially, it's protected.
5 They -- I believe there was a link to a website and the
6 creditors were invited to sort of look it up. And the
7 Debtors did more than that. They also did their due
8 diligence. Mr. Tichenor's declaration filed the other day
9 went into the fact that they had done their due diligence
10 and I believe the Committee did due diligence as well.

11 But the information should have been, the U.S.
12 Trustee believes, should have been in the disclosure
13 statement itself so that they could evaluate it. And we
14 have a contrast, Your Honor, between this and what Voyager
15 itself did in terms of describing the measures it took to
16 protect the cryptocurrency.

17 As Your Honor will recall undoubtedly I know
18 counsel for the Debtor will definitely recall, we had a long
19 cash management process. A lot of time elapsed between the
20 time the motion was originally filed and the time we finally
21 got a final order on that, but the logjam was cleared by the
22 declaration submitted by Voyager describing exactly what it
23 was that the -- that Voyager was doing to protect the
24 cryptocurrency.

25 And then the Committee, for its part, filed a

1 statement basically supporting what they did. That stands
2 in marked contrast to what the disclosure statement did. So
3 I don't know what's going to be put forth today, Your Honor,
4 on that and other disclosure issues but our argument was
5 simply that if the creditors were going to be fully informed
6 what it was that they were signing up for by voting in favor
7 of the plan, there should have been more disclosure right
8 there in the disclosure statement.

9 Your Honor, I know this is a little apart from the
10 question and I can bring this up later if you want, just to
11 add -- just a comment about the voting and the effect of
12 certain things on recovery. If you'd like to hear it now,
13 it's about one or two sentences on each thing.

14 THE COURT: About the voting?

15 MR. MORRISSEY: Yes. Your Honor, as Ms. Okike
16 said, the voting was 97 percent number, et cetera, voted yes
17 and that is true and that is also what is relevant in
18 determining whether there is sufficient voting in favor of a
19 plan for a plan to be confirmed. But to put the matter in
20 some perspective, I believe -- and Ms. Okike can correct me
21 if I'm wrong on this, but of the eligible creditors only 6
22 percent of them voted. So it's a small segment, but again,
23 I understand of course, that under the Bankruptcy Code, the
24 97 percent number is the relevant number.

25 The other issue, Your Honor, has to do with what

1 may affect recoveries. I believe Ms. Okike explained how
2 the disposition of the Alameda issue may affect recoveries,
3 but I believe there's something else which is intercompany
4 transactions. And we have counsel here on that, not only
5 Ms. Okike but Mr. Kirpalani as well and the result of the
6 litigation concerning the intercompany transactions, I
7 believe, can affect the distributions to creditors under the
8 plan as well.

9 I don't know the numbers. Perhaps Ms. Okike does,
10 but I just wanted to point those things out to the Court.

11 THE COURT: Okay.

12 MR. MORRISSEY: Anything further, Your Honor?

13 THE COURT: Not at this stage. I may have
14 questions for you later.

15 MR. MORRISSEY: Thank you, Your Honor.

16 THE COURT: All right. I think we have an idea of
17 what we need to do with the evidence, so unless there's
18 further points that people want to raise before we go to the
19 witnesses, we'll take the evidentiary submissions.

20 MS. RYAN: Your Honor, this is Abigail Ryan with
21 the Texas Attorney General's Office. If I may be heard
22 briefly?

23 THE COURT: Yes.

24 MS. RYAN: Thank you, Your Honor. Again for the
25 record, Abigail Ryan with the Texas Attorney General's

1 Office on behalf of the Texas State Securities Board and the
2 Texas Department of Banking. Your Honor, we are continuing
3 to work with the Debtor and Binance to see if we can find a
4 way that Texas citizens will not be treated as a
5 nonconsenting jurisdiction. We're not there yet. We are
6 continuing those discussions in good faith and we'll
7 continue to do so.

8 Before we get started though, one thing I wanted
9 to clarify is that the language that has been inserted at
10 Paragraph 141 through 142, we are not in agreement with that
11 language, Your Honor, the State of Texas isn't, but we are
12 continuing through this hearing to discuss language that
13 could be agreeable. I just wanted Your Honor to be aware of
14 that. Thank you, Your Honor.

15 THE COURT: Paragraphs 142 of what, the
16 confirmation order? Is that what you're talking about?

17 MS. RYAN: Yes. Yes, Your Honor, the confirmation
18 order.

19 THE COURT: Okay. Well, as I've said many times,
20 I tried to read everything, but I didn't get to the
21 confirmation order because I ran out of gas. I did read
22 everything else, but --

23 MS. RYAN: I understand running out of gas, Your
24 Honor. And again, we'll continue to discuss this language
25 with the Debtor throughout the hearing and hopefully we'll

1 reach an agreement, but that's the status with Texas as of
2 right now.

3 THE COURT: All right, thank you.

4 MS. RYAN: Thank you.

5 MR. SLADE: Good morning, Your Honor. Mike Slade,
6 Kirkland & Ellis, for the Debtors. We filed our witness and
7 exhibit list at Docket No. 1129 because we thought it would
8 make it easier for people to follow the hearing and all of
9 the exhibits that might be used are on the docket as well.

10 Our first witness just to get just out of the way,
11 I would just like to offer our voting declaration, which is
12 the declaration of Letty Sanchez, Exhibit 4 on our witness
13 list. It's also on the docket at Docket No. 1127 and I
14 would offer that declaration into evidence and Ms. Sanchez
15 is here and available to cross examine.

16 THE COURT: This is the amended declaration?

17 MR. SLADE: That's correct, Your Honor.

18 THE COURT: All right. Are there any objections
19 to the admission of the amended voting declaration into
20 evidence? Does anyone wish to cross examine the declarant
21 as to the substance of that declaration? Okay.

22 MR. NEWSOM: I would, Your Honor. Can I elaborate
23 more on that amended, whatever, declaration? What is that
24 basically saying?

25 THE COURT: I couldn't understand what you just

1 said, I'm sorry.

2 MR. NEWSOM: Can they elaborate more on that, like
3 what is that explain, they're doing for us.

4 THE COURT: This is the declaration as to what the
5 ballot results were, how many people voted in favor of the
6 plan, how many people voted against the plan.

7 MR. NEWSOM: What about when -- what about the
8 people who didn't vote? Is that -- the people that didn't
9 vote, is that considered a yes in favor of it if they didn't
10 vote at all or --

11 THE COURT: Under the Bankruptcy Code, the plan is
12 deemed to be accepted if it is accepted by certain
13 percentage of the people who actually vote one way or the
14 other. Okay? So we only look at the people who actually
15 voted for or against, and if among those people, the plan
16 was accepted by the requisite percentages in number and
17 amount, then the plan is deemed to be accepted by that
18 class. Okay? So the fact that some people don't vote at
19 all under the Bankruptcy Code is a fact that's ignored.
20 Okay?

21 MR. NEWSOM: I don't find that to be -- I don't
22 find that to be fair voting, Your Honor.

23 THE COURT: Well --

24 MR. NEWSOM: -- the plan have to do -- what did
25 the plan have to do -- the opt-out release and what does it

1 have to do with releasing third parties from any type of,
2 like, you know, charges or anything that would come about
3 later on?

4 THE COURT: Well, it actually has nothing to do --

5 MR. NEWSOM: Why --

6 THE COURT: It has nothing to do with the opt-out,
7 with the opt-in release. If somebody didn't vote, they're
8 not releasing their own claims unless they have separately
9 affirmatively elected to do so. And as to whether this way
10 of doing the voting is fair, I'm afraid you'll have to take
11 that up with Congress. It's not something I have any
12 control over. It's a very clear provision in the Bankruptcy
13 Code itself.

14 MR. NEWSOM: Are you going to (indiscernible) once
15 the plan, a voting plan (indiscernible)?

16 THE COURT: I'm sorry?

17 MR. NEWSOM: Why was there a plan when FTX
18 (indiscernible) and if that didn't go through, why was there
19 a winddown effect at that time?

20 THE COURT: Well, that's not really -- right now,
21 you know, right now we're not just kind of opening the floor
22 to general question. Right now, the question is whether
23 there's any objection to the admission of the declaration as
24 to what the voting results were. Okay? extra. I'm sorry.
25 Well, is there a plan when they're -- and go through, wasn't

1 winddown in effect at that time? That's not really right
2 now, you know, right now we --

3 MR. NEWSOM: Yeah, I would like to see a report if
4 they can revise a report as who voted yes and who voted no
5 and who didn't vote, if that's possible.

6 THE COURT: You want to see by name who voted?

7 MR. NEWSOM: I mean, they can redact that
8 information. They can say creditor one, creditor two,
9 creditor three, yes, no, yes, no (indiscernible).

10 THE COURT: It's actually already on --

11 MR. NEWSOM: (indiscernible).

12 THE COURT: It's already on file on the public
13 docket. There's a lengthy attachment --

14 MR. NEWSOM: Yeah, which was done by the Debtors.
15 Which was done by the Debtor, which we know we don't trust,
16 because, you know.

17 THE COURT: Okay. All right. I've heard your
18 objection. I'll admit the declaration into evidence. Is
19 there any cross examination of the declarant that anybody
20 wishes to do? Okay. Do you have other evidence from that
21 witness that you wish to offer?

22 (Declaration of Leticia Sanchez entered into
23 evidence)

24 MR. SLADE: No, Your Honor.

25 THE COURT: Okay. Very good.

1 MR. SLADE: Your Honor, our next witness, we would
2 call Mark Renzi. He's the financial advisor to the Debtors.
3 His declaration is Exhibit 1 on our witness list and we
4 would offer that. It's also on the docket at Docket No. 111
5 -- it's on the docket at 1119. We would offer that. Mr.
6 Renzi is here and available for cross examination.

7 THE COURT: All right. Are there any objection to
8 the admission of Mr. Renzi's declaration into evidence? All
9 right.

10 MR. HENDERSHOTT: Your Honor, Tracy Hendershott,
11 Your Honor, pro se creditor. Is there any way we can get a
12 continuation to be able to review all of these declarations?
13 There's literally hundreds of pages of documents that were
14 just submitted within 48 hours, unlike the professional
15 organizations, us creditors do not have an army of lawyers
16 to review all of this stuff and I thought the standards were
17 that we needed a week before any hearing of submission of
18 any type of documentation for us to digest, review, and
19 actually formulate questions and whether that's with
20 testimony or against the filings themselves.

21 MR. NEWSOM: I'm in support of that.

22 THE COURT: All right.

23 MR. HENDERSHOTT: This has been actually a trend,
24 Your Honor. Excuse me. Sorry. It's hard without visuals
25 of us being in person, but I don't intentionally mean

1 interrupt in any means, but this has actually been a trend
2 throughout this entire case starting right with the first
3 plan and disclosure meeting where the Debtors in Possession
4 submit almost 1,000 pages the day before. There's no way
5 that us as pro se creditors are able to digest that in any
6 form whatsoever. And that continues to this very day.

7 THE COURT: Counsel?

8 MR. NEWSOM: (indiscernible).

9 MR. SLADE: Your Honor, we did file Mr. Renzi's
10 declaration two days ago along with our reply, consistent
11 with the deadlines that were set by the Court on Tuesday and
12 if Mr. Renzi's declaration weren't admitted, we would be
13 calling him to testify and he would say the same things that
14 are in his declaration. So I don't think that's an
15 objection to the admission of the actual document, so we
16 would ask Your Honor to overrule the objection and admit the
17 declaration. And any questions they can ask of Mr. Renzi on
18 cross examination.

19 MR. HENDERSHOTT: Your Honor, I disagree. I've
20 had absolutely no time or ability within the 48 hours of
21 being flooded with, you know, numerous submissions to be
22 able to review and even intelligently ask a question. I
23 guess the question I'm asking, is there not a standard that
24 one week before the hearing is the cutoff for submission of
25 documentation to be discussed at that hearing?

1 THE COURT: No, there isn't. And most of the --
2 most of these declarations were filed in response to the
3 objections that were filed only a week before the hearing.

4 MR. HENDERSHOTT: Right, so there's no ability for
5 us to be able to review them and digest them and, you know,
6 be able to have a valid exchange of questions and answers
7 during this hearing. Again, we do not have an army of
8 professional lawyers to digest all these multiple
9 submissions. It puts the credits at a disadvantage and I'm
10 sure that's part of the strategy.

11 MR. NEWSOM: I agree. I'm in support of that
12 objection.

13 THE COURT: Okay. True. Okay. Why don't you put
14 Mr. Renzi on the stand, but you know, an awful lot of what's
15 in his declaration is about compliance with various
16 provisions of the Bankruptcy Code that is pretty obvious on
17 its face and that hasn't been contested. Don't really think
18 we need further evidence on that. So if there's points that
19 you wish to argue with Mr. Renzi based on disputed issues,
20 objected issues, let's offer that.

21 As to other points, to the extent that his
22 declaration is just a kind of confirmation of compliance
23 with provisions of the code that are not in dispute, I will
24 admit it on those points. But to the extent that is
25 anything in his declaration that deals with any of the

1 objected matters, let's just go ahead and do that live.

2 Okay?

3 MR. SLADE: Happy to give it a shot, Your Honor.

4 I think one of the struggles as Your Honor experienced with
5 the two objectors that you spoke to, it's not entirely clear
6 what disputed issues are, but we will certainly give it a
7 shot.

8 THE COURT: Okay, so the declaration is admitted
9 as to compliance with various provisions of the Bankruptcy
10 Code that haven't been contested and to the extent that Mr.
11 Renzi has any testimony to offer on subjects of -- to which
12 objections have been posed, we'll hear that testimony.

13 Okay?

14 MR. NEWSOM: Your Honor, Dan Newsom, pro se
15 creditor. If you want to hear objections (indiscernible)
16 right now or are we doing that at a later time?

17 THE COURT: I'm sorry? Well, the objections --

18 MR. NEWSOM: Are you wanting to hear --

19 THE COURT: Objections have been filed. We're
20 taking evidence now. Mr. Renzi is about to testify.

21 MR. NEWSOM: Okay.

22 THE COURT: Okay? Mr. Renzi, do you swear that
23 the testimony you are about to give will be the truth, the
24 whole truth, and nothing but the truth, so help you God?

25 THE WITNESS: Yes.

1 THE COURT: All right. State your full name for
2 the record.

3 THE WITNESS: Mark Anthony Renzi.

4 THE COURT: Thank you. You may sit.

5 MR. SLADE: Your Honor, may I approach the witness
6 --

7 THE COURT: Yes. You don't need permission. You
8 can go ahead.

9 DIRECT EXAMINATION OF MARK RENZI

10 BY MR. SLADE:

11 Q Good morning, Mr. Renzi.

12 A Good morning.

13 Q Can you tell the Court and the folks on the phone what
14 you do and what your role is for the Debtors?

15 A So Mark Renzi. I'm a financial advisor to the Debtors.
16 I lead our financial institutions group at BRG. I've been
17 working with the company since the beginning of this
18 bankruptcy process.

19 Q Okay. I want to try to hit the, what I understand to
20 be contested issues as directed by the Court. The first one
21 I want to talk about is feasibility. Okay? Can you just
22 tell the Court what the plan does?

23 A Yep. The plan demonstrates that, number one, that we
24 have gone out and solicited all of our customers to vote on
25 the plan. It's -- demonstrates that it's in the best

1 interests of creditors and it demonstrates that we have
2 overwhelming support based on my understanding that was just
3 admitted in terms of -- from Stretto.

4 Q Okay, can you just describe generally what are the
5 transactions that are contemplated by the plan?

6 A The transaction contemplated by the plan is the sale of
7 the assets to Binance.US and effectively doing that, you
8 know, in short order by April. And that has been a
9 maximizing value transaction that we've worked through with
10 the company and the Unsecured Creditors Committee.

11 Q And if the transaction with Binance does not close,
12 what happens under the plan?

13 A Under the plan, there's a provision for a toggle and
14 that toggle into liquidation. And that has been heavily
15 negotiated and it is a provision in case there are any
16 contingencies. And most importantly, what I think the
17 toggle does is it helps expedite any process to get
18 cryptocurrency and assets back to customers.

19 Q Okay. So let's take each one of those in turn. I want
20 to start with the Binance transaction. What role has your
21 team played in diligencing the Binance transaction?

22 A You know, our team has worked alongside with the
23 Debtors, our investment bank Moelis, and the company to make
24 sure that we understand how the transaction works. We've
25 worked specifically with Binance and their counsel to make

1 sure that we had an opportunity to diligence how it would
2 go, how it would work, and then we also solicited third-
3 party information, made sure we had incredibly good detail
4 about the markets in cryptocurrency to make sure that this
5 transaction made sense.

6 Q Okay. And based on your review, do you believe the
7 transaction with Binance makes sense?

8 A I do.

9 Q Sitting here, based on what you know today, do you have
10 any reservations about the Binance transaction?

11 MR. SHEHADEH: Objection.

12 THE COURT: What is the objection?

13 MR. SHEHADEH: I object that the plan makes no
14 sense, Your Honor. It's not a better plan. There was no
15 toggle liquidation in the beginning when there was
16 supposedly a bidding war.

17 THE COURT: Okay.

18 MR. SHEHADEH: -- between FTX and other companies.

19 THE COURT: All right, let me --

20 MR. SHEHADEH: If that -- if they want the best
21 interest in the creditors, they should've just released our
22 money when the FTX bid didn't go through. They would've
23 saved millions and millions of dollars --

24 THE COURT: Let me --

25 MR. SHEHADEH: -- on counsel --

1 THE COURT: Let me interrupt --

2 MR. SHEHADEH: -- third parties.

3 THE COURT: Let me interrupt you, please. Who is
4 making the objection? Whenever you speak, you need to
5 identify yourselves or we won't have a record. Who is
6 making the --MR. SHEHADEH: I'm sorry, Your Honor. Alah
7 Shehadeh. Alah Shehadeh for the record, pro se creditor.

8 THE COURT: Just to be clear, when the witness is
9 testifying, you can object on evidentiary grounds, right, if
10 there's some reason under the rules of evidence why there's
11 something wrong. But the fact that you disagree with what
12 the witness says is not a ground for objection. That's a
13 ground for argument at the end of the day. It's not a
14 ground for objection to the witness's testimony. Okay?

15 MR. SHEHADEH: Well, I'm objecting, Your Honor,
16 and there's facts behind my objection. It's not just my
17 opinion.

18 THE COURT: But, okay, you'll have your chance to
19 make your argument and if you have evidence you want to
20 offer, to offer it. But to object to the witness' testimony
21 is really something you can only do on evidentiary grounds.
22 If the Debtor disagrees with you, they're entitled to put on
23 their case and you can put your case on later, but it's not
24 a ground to object to their evidence just that you disagree
25 with it. Okay? Go ahead.

1 MR. SLADE: Thank you, Your Honor.

2 THE COURT: The objection is overruled.

3 MR. SLADE: Thank you.

4 BY MR. SLADE:

5 Q Please describe for the Court why you're comfortable
6 going forward with the Binance transaction based on what we
7 know today?

8 A I'm comfortable with this transaction because number
9 one, our team BRG has spent a significant amount of time
10 diligencing this transaction. Number two, Moelis has got
11 the same, they've diligenced this transaction extensively.
12 Number three, the advisors Kirkland & Ellis has also
13 diligenced a tremendous amount. Number four, FTI Consulting
14 has also diligenced this transaction and then pressure
15 tested this and they represent the Unsecured Creditor
16 Committee and McDermott, Will and Emery has also done the
17 same. So with the objectivity of counterparties that are
18 protecting the customers and with the objectivity of
19 independent parties that are representing the Debtors, I
20 believe based on everything that I've seen that this is a
21 fair plan and it's been well documented.

22 Q So you heard a couple of the regulators before you got
23 on the stand testify about hypothetical potential regulatory
24 options. Are you aware of those?

25 A I am. I've actually written about some of the

1 regulations in cryptocurrency.

2 Q Okay. And in spite of those, do you still believe this
3 is in the best interests of the estate to go forward sitting
4 here today?

5 A Yes, I do.

6 Q Can you describe why?

7 A I think cryptocurrencies is an evolving asset class.
8 The regulatory overlay is still developing. I heard some of
9 the remarks that were made earlier in the Court here, but
10 there's nothing that I understand based on advice from and
11 counsel that precludes this transaction from going through.

12 Q Okay. Now I want to move to the toggle transaction.
13 Why is that part of the plan?

14 A I think the -- what we're trying to do, the Debtors,
15 the company, as well as its advisors, is to make sure that
16 to the extent that there's any reason that we're
17 uncomfortable with the transaction being consummated with
18 Binance.US, we have optionality to go convert it into a
19 toggle plan. And most importantly, it provides a path to
20 get crypto back to its customers as quickly as possible.
21 And we believe that that's very important.

22 Q Does the company currently have personnel on hand to do
23 the work needed for the toggle transaction if we decide to
24 toggle?

25 A Yes, it does.

1 Q Okay. And can you just describe for the Court what will
2 happen if we have to toggle to the toggle transaction?

3 A I mean, if we have to toggle from the Binance
4 transaction, the company is prepared and its personnel are
5 prepared to execute on the transaction to distribute
6 cryptocurrency to customers. It's important to do this. It
7 would be unfortunate because it would be a little less in
8 proceeds as I'm testifying here, but nonetheless, we have
9 the ability to do it and the personnel's ready to do it and
10 a plan to do it, if we had to.

11 Q Mr. Renzi, is the only reason to believe that if the
12 plan is confirmed, it's likely to be followed by further
13 liquidation or reorganization of the Debtors?

14 A Do you mind asking that question again?

15 Q Sure. Is there any reason to believe that if this plan
16 is confirmed there's going to be a likelihood of a need to
17 further reorganize or liquidate the Debtors --

18 A No.

19 Q -- in a way other than is described in the plan?

20 A No. I think the way it's described in the plan is
21 appropriate.

22 Q Thank you.

23 MR. SLADE: Your Honor, a clarification for you.
24 Do you view the liquidation analysis best interest test as a
25 matter that's in dispute and I need to inquire the witness

1 about?

2 THE COURT: Is the State of Texas still raising a
3 best interests issue or have they been satisfied on that
4 point? Is the -- are the state's attorneys on the phone?
5 Is anybody on the phone --

6 MS. RYAN: Your Honor?

7 THE COURT: Thank you.

8 MS. RYAN: Your Honor, I apologize. This is Mrs.
9 Ryan with the State of Texas. I was having problems getting
10 unmuted. Could you repeat your question, Your Honor?

11 THE COURT: The question was, does -- Texas had
12 raised an issue about whether under the disclosure
13 statement, liquidation was a better option than the plan,
14 which is essentially a question of best interests as we call
15 it under the Bankruptcy Code. I understand the Debtors'
16 response was that if the -- if an Alameda or other event
17 changes the plan recoveries, it would have the same
18 proportionate effect on Chapter 7 recoveries.

19 My question is, do you still have an objection on
20 that point? Do we need any evidence on it or have you been
21 satisfied?

22 MS. RYAN: Your Honor, I do still have some
23 questions on that point to get some clarification. And so
24 when the time is appropriate, I can ask those.

25 THE COURT: Okay, why don't you go ahead, put your

1 best interests case on.

2 MR. SLADE: Sure, Your Honor.

3 BY MR. SLADE:

4 Q Mr. Renzi -- and I want to talk about the best interest
5 test and liquidation analysis that your team did, okay?

6 A Sure.

7 Q You just describe for the Court what you did to
8 evaluate the plan versus a hypothetical Chapter 7
9 liquidation?

10 A So number one, the declaration is quite extensive on
11 this, but I'll do the short version. Essentially, what we
12 did is evaluate all of the assets that we have, so the
13 coins, and make sure that we understood, you know, what kind
14 of proceeds we could get for rebalancing the portfolio. We
15 looked at that systematically. We looked at that with, you
16 know, being able to test and call market participants in the
17 market and understand how to monetize these assets to
18 rebalance, to make distributions in kind.

19 That is a complicated process based on the way the
20 markets work in cryptocurrency. And so, having the ability
21 to do that is very important in the plan for the Binance
22 plan. If we have to do it for the toggle, it would -- we
23 also considered that under the toggle and both of those are
24 key for the plan. And then we evaluated how those proceeds
25 will flow through the waterfall of creditors, you know,

1 through the priority waterfall, and then down to account
2 holders. And so -- and then we juxtaposed that analysis,
3 that those two analyses against the liquidation. In a
4 liquidation, we believe that the ability to monetize these
5 assets is a little bit more problematic because these
6 markets are particularly complicated.

7 There are unsupported coins and monetizing unsupported
8 coins quickly is likely to have a very heavy discount. And
9 because of those factors, we believe that the proceeds that
10 we get under an immediate liquidation under a Chapter 7
11 would yield lower recoveries for customers. So I think in
12 general, to summarize at a high level that the plan has
13 higher recoveries for all three entities, legal entities,
14 versus a liquidation, a Chapter 7 liquidation, and that
15 satisfies the best interests of creditors test.

16 Q Is that true for all creditors?

17 A Yes.

18 Q Does it doesn't matter whether or not FTX prevails in
19 its litigation that it has initiated against the Debtors?
20 Does that make a difference for purposes of liquidation
21 analysis?

22 A No.

23 Q I want to turn now to the unsupported jurisdictions.
24 What does the plan provide with respect to the 4 out of 50
25 states that have not licensed Binance.US?

1 A I was under the impression now it's three, but wanted
2 to confirm that, Your Honor.

3 Q So what does the plan provide for those customers?

4 A So the plan provides for a period of time for the three
5 states that remain to be able to have distributions in kind
6 for customers. I think effectively all customers are
7 treated on a pari passu basis with equal footing and they
8 will all get the same amount of recovery based on their
9 class. So that's the most important thing. And regardless
10 of state. However, there are some technicalities within the
11 states, three states that I'm aware of, that I don't really
12 fully understand the technicalities within those states, but
13 I understand that there's some problems for distribution.
14 However, there's a six-month hold period, you know, to
15 address that, to provide enough time for the states to get
16 comfortable with distributions to customers.

17 Q Just so we're clear, do the customers in the
18 unsupported jurisdictions get the same recovery as the
19 customers in the supported jurisdictions?

20 A Yes, they do.

21 Q Okay. Can you describe for the Court, whether it's
22 possible for Voyager to facilitate distributions in kind to
23 creditors in the unsupported jurisdictions and do the
24 Binance transaction at the same time?

25 A I mean, the Binance transaction effectively sells the

1 entire platform over the Binance, so in order for Voyager to
2 distribute to the three remaining states, they would have to
3 do it manually. In my opinion, 120,000 customers with over,
4 I believe, it's 106 coins, is incredibly problematic and
5 fraught with -- to do it manually. So I would be very
6 concerned if that was the path that we would have to take.

7 Q Can you just describe for the Court what some of the
8 risks would be?

9 A The risks, I mean, when you have a very well-developed
10 platform such as Binance.US, they have the ability to
11 understand, you know, KYC and AML issues to make sure that
12 there's a good record keeping. That platform can be -- you
13 know, track all of that very well. I think a manual process
14 is very labor intensive. I don't think it's easy to check,
15 KYC and AML issues for making distributions. Those are some
16 of the issues that I would have if it had to be done
17 manually.

18 MR. SHEHADEH: Your Honor, I'd like to object to
19 that because if you look at Binance's asset shuffling, it's
20 very similar to FTX and this is by (indiscernible), Your
21 Honor. Summarizing Binance's, ongoing lies and deception
22 with the (indiscernible) financial transparency, comingling
23 customers' funds, (indiscernible) assets. So you wanted to
24 (indiscernible), then they have liquidity issues and then
25 they file for bankruptcy. Then what happens next? Is that

1 the best interest in the creditors?

2 THE COURT: I --

3 MR. SHEHADEH: I feel like if (indiscernible)
4 really have the best interest in the creditors, the moment -
5 - first of all, they wouldn't even have filed Chapter 11 --

6 THE COURT: Mr. Shehadeh --

7 MR. SHEHADEH: -- because they want --

8 THE COURT: Mr. Shehadeh --

9 MR. SHEHADEH: -- organization plan --

10 THE COURT: Stop, please.

11 MR. SHEHADEH: -- had no plan to reorganize the to
12 reorganize the company. They want to sell it.

13 THE COURT: Please. Please stop.

14 MR. SHEHADEH: They want to liquidate it and milk
15 as much money --

16 THE COURT: Please stop for a moment. Stop for a
17 moment, please. You need to understand, disagreeing with
18 the witness' conclusion is not a ground to interrupt the
19 witness' testimony. You have your own arguments, you may
20 have your own evidence, but that's not a basis on which to
21 interrupt the witness' testimony. It is not a proper
22 objection to what the witness has said. If you have
23 questions of the witness, then you can ask them when the
24 direct examination is finished. If you have evidence, you
25 will have a chance to offer it after the Debtors have

1 finished their case, but I know you're not a lawyer, but
2 please listen to me. You cannot interrupt a witness'
3 testimony or object to it on the ground that you disagree
4 with it. That is not a proper objection. Okay? It is only
5 a proper objection if there's something wrong under the
6 rules of evidence with what is being offered. And if you
7 disagree, that's a point either for argument or for cross
8 examination or for the presentation of your own evidence.
9 Okay?

10 MR. SHEHADEH: Yes, Your Honor, I understand that
11 but I'm not arguing on it. I'm just stating the facts. I
12 objected to the fact that the witness is saying that that is
13 the best --

14 THE COURT: That is arguing.

15 MR. SHEHADEH: -- thing for the creditors --

16 THE COURT: Stating what you believe are contrary
17 facts is argument. So you have to wait. Okay? That's not
18 a basis to interrupt --

19 MR. SHEHADEH: It's not what I believe --

20 THE COURT: -- this witness' testimony.

21 MR. SHEHADEH: -- are facts, what I understand.

22 THE COURT: Okay. Please don't interrupt the
23 witness' testimony and -- with that kind of issue again,
24 okay? All right. Had you finished your prior answer?

25 THE WITNESS: Yes, Your Honor. Thank you.

1 THE COURT: Okay.

2 BY MR. SLADE:

3 Q Just a few more questions, Mr. Renzi. I want to talk
4 about the remaining personnel at the company. Okay? Can
5 you describe the role of the remaining personnel at Voyager
6 in executing on either the sale to Binance or the toggle
7 transaction?

8 A The remaining personnel have, you know, in-depth
9 knowledge of cryptocurrency markets, how the operations
10 work, how to do things, you know, within the constructs of
11 legal entities that they have, and they're experts within
12 Voyager. So they'll help facilitate rebalancing, which is a
13 major transaction to get done and it is very, very
14 complicated. They'll also help with, you know, making sure
15 the records are maintained properly and any other things
16 that are required by the trust.

17 Q What would be the impact on for -- just as an example,
18 the security risks to these transactions if the employees
19 were to leave?

20 A I would be very concerned if the employees had to
21 leave. They were -- have been protecting these assets
22 during the bankruptcy case. They understand how to address
23 security issues and they have intimate knowledge of how to
24 transact within the cryptocurrency marketplace.

25 Q So can you just describe for the Court like some of the

1 risks involved in these transactions from a security
2 perspective for the customers?

3 A Well, rebalancing is very -- is complicated. So making
4 sure you have the right counterparties, making sure that
5 they can transfer money in and out within accounts in an
6 appropriate fashion is imperative. I believe that those are
7 among the things that they're doing to address risks.

8 Q And how about the actual transaction where we're
9 transferring the money either to Binance in the Binance deal
10 or directly to customers in the toggle?

11 A Absolutely. The transaction and distribution of funds
12 or coins in kind is incredibly important to get done. I
13 think you can't reverse a wire in crypto. It's what you
14 distribute to a wallet. It's permanent, and undoing that
15 is, to the best of my knowledge, I don't think you can undo
16 a mistake. And in a bank context, you can reverse a wire,
17 as -- by way of example.

18 Q And can you describe for the Court whether the risks
19 are higher or lower of those transactions, if the employees
20 that are still at the company leave?

21 A My opinion is it's much higher if the employees at the
22 company leave. They're experts in the space. I believe
23 that it's hard to find people like them. I think if it was
24 to be someone independent, by way of a Chapter 7 Trustee, I
25 think it would be much more complicated and obviously, in my

1 expert opinion, I believe it would cost -- it would be not
2 value maximizing under those scenarios.

3 Q Okay. That's actually the last topic I wanted to
4 cover, which is the possibility of the appointment of a
5 Trustee. Do you believe an appointment of a Trustee would
6 be good or bad for creditors?

7 A It would be bad.

8 Q Can you describe why?

9 A I think the most important thing we've heard from some
10 of the customers on the phone is to get their cryptocurrency
11 back. So timing is very important. We believe that if
12 there was a Trustee, it would extend the timeline for
13 customers to get their cryptocurrency back.

14 We also believe that there's a higher probability of a
15 conversion to a seven, and right now, we already have 97
16 percent of customers voting in favor of this plan. And then
17 lastly, we've been doing this in a transparent and
18 collaborative way with the Unsecured Creditors Committee and
19 advisors. So I'm not -- really don't understand, other than
20 the downside of appointing a Trustee.

21 MR. SLADE: Thank you, Your Honor. Pass the
22 witness.

23 THE COURT: All right. Is there anybody in the
24 room -- start with the people who are present in the room --
25 who wishes to cross examine Mr. Renzi?

1 CROSS EXAMINATION OF MARK RENZI

2 BY MS. SCHEUER:

3 Q Good morning, Mr. Renzi. For the record, Therese
4 Scheuer for the Securities and Exchange Commission.

5 A Morning.

6 Q Mr. Renzi, what are market constraints?

7 A I think simply put, and I know this is a newer asset
8 class, but simply put, market constraints really mean by way
9 of example, Bitcoin and ETH have a very deep market trading
10 volume. And there are others that have, you know, a large
11 market cap. But there are a number of less common, more
12 obscure coins that don't have as much of market depth.13 And so as I in my decoration, I used to be -- I used to
14 be a trader a long, long time ago and understand markets
15 very well. And if you are selling coins that don't have a
16 lot of market depth, there's a tremendous amount of concern
17 that it will move in the market. I think Bitcoin and ETH
18 have a much larger market, so by way of example, it's harder
19 to move that market unless there's very large blocks, but
20 that's the general concept of -- that you were asking about.21 Q Thank you. And I'm going to paraphrase, but I think
22 Paragraph 76 of your declaration provides that a mass sale
23 of coins in illiquid markets is expected to move the market
24 significantly. Do you agree with that?

25 A Yes, I agree with that.

1 Q Okay. And in a Chapter 7 case, you assume that a
2 Chapter 7 Trustee would liquidate coins immediately, which
3 would move the market lower and your declaration provides it
4 would reduce distributions by 20 to 26 percent; is that
5 correct?

6 A Yes. That's correct.

7 Q But the market depth constraints were not as
8 significant for a sale or toggle plan, correct?

9 A That's correct.

10 Q And why was that?

11 A Well, under -- number one, you know, having the ability
12 to rebalance with time, you know, maximizes value and that's
13 important. I think to the -- and we also have verified that
14 if we had to do this quickly, there'll be tremendous
15 pressure on the market. So I think if you're going into a
16 liquidation, straight liquidation, without a prescribed
17 plan, so a Chapter 7 liquidation, there'd be a tremendous
18 amount of pressure on the market, and that's also validated
19 by market makers in the industry, Moelis, BRG, and also in
20 consultation with the UCC advisors.

21 Q And are those -- are the market constraints what
22 accounts for the difference in recoveries and the different
23 scenarios, the sale toggle, the liquidation? Is that the
24 primary difference?

25 A That is a primary difference. I mean, I think the

1 issue is that there are unsupported coins. Unsupported
2 coins are much easier to address if you're distributing them
3 in kind versus trying to liquidate those coins. We went to
4 market makers to understand what that would look like if we
5 had to transact quickly and were given rates of decrease,
6 you know, in the market. And then then lastly, I'll say my
7 expert opinion from having to trade derivatives, if you try
8 to move trading derivatives quickly, people will generally
9 try to take advantage of that and then it will be a much
10 worse outcome.

11 Q Okay. Are you familiar with the stipulation that
12 Voyager recently filed with the FTX debtors?

13 A I'm familiar, but I would like a refresher if somebody
14 has a copy of that for me.

15 Q This stipulation regarding FTX's preference actions.
16 Does that refresh your recollection at all that Ms. Okike
17 mentioned at the beginning of the hearing?

18 A Yes.

19 Q Broad brush, what is your understanding of what
20 settlement provides?

21 MR. SLADE: I'll object to the relevance of this
22 question.

23 THE COURT: Well, I don't know if it's relevant or
24 not. It seems to be not what this witness is testifying
25 about. Is there a different witness that you plan to offer

1 on the -- as to the FTX stipulation?

2 MR. SLADE: That's not up for today, so no.

3 MS. SCHEUER: Your Honor, I don't plan to question
4 in depth regarding that stipulation. It just goes to the
5 effect that might have on distributions.

6 THE COURT: The stipulation or the underlying
7 claim.

8 MS. SCHEUER: The stipulation.

9 THE COURT: You can answer to the extent you know.

10 BY MS. SCHEUER:

11 A I think that I'd like to look at the continent before I
12 answer you in depth, but in general, I understand that if we
13 have to reserve more funds for FTX Alameda, that it would
14 apply across all scenarios equally, so it would reduce
15 recoveries equally in general. But that's --

16 Q Is your understanding that four -- over \$400 million
17 would be set aside in connection with those preference
18 actions? Is that --

19 A Under a hypothetical scenario, yes. It would have to
20 be set aside, but I don't -- I can't opine as to how, why.
21 And I just understand the math.

22 Q Is that your understanding of what the general
23 settlement currently provides? That --

24 A I understand --

25 Q -- \$400 million would be set aside.

1 A -- 400-plus million. Yes. Sorry. Sorry to interrupt
2 you.

3 Q That's quite all right. I'm sorry if I was talking
4 over you. But that 400 million, 445 million, would that be
5 set aside in coins or is it being set aside in cash?

6 A Your Honor, I'm not sure I know the answer to that.

7 Q If it had, if \$445 million worth of coins had to be
8 liquidated now and set aside in cash, would there be market
9 depth constraints in liquidating those coins?

10 A I mean, I think the same issue applies. If you -- to
11 the extent that you had to set aside funds, we would work
12 with the Unsecured Creditors Committee and also the company
13 and our advisors to find out what's the optimal way to set
14 aside funds so that we don't have the market constraint
15 issues that I described earlier. But we had to set aside
16 them, it would certainly be a significant amount of money.
17 And if we have to liquidate coins, it's subject to all of
18 the issues that I just formerly testified to.

19 Q And the 445 million is almost half of the coins on the
20 value of the coins on the Debtors' platform? Is that right?

21 A The value has gone up, so it's a little less than half
22 now.

23 Q Okay. And what steps would you take to mitigate
24 against those market depth constraints?

25 MR. SLADE: Your Honor, I would object. I'm just

1 having a hard time connecting any of these questions to the
2 SEC's objection.

3 MS. SCHEUER: Our Paragraph 7 of the SEC's
4 objections noted that creditors and stakeholders are
5 entitled to know what the sale transaction provides.
6 They're entitled to know the benefit of the sale transaction
7 versus the toggle or a liquidation. I'm paraphrasing.

8 THE COURT: This isn't really a feature of the
9 sale transaction. The -- you know, the Bankruptcy Code says
10 that administrative claims have to be paid in full. The FTX
11 preference, Alameda preference claim is asserted as an
12 administrative claim. The only way you can comply with the
13 Bankruptcy Code requirement is to reserve the amount that's
14 in dispute until such time as the claim is resolved. I
15 think, no matter what, that the Debtors are selling coins to
16 Binance and holding cash -- but you can correct me if I'm
17 wrong -- but that Binance will be, whether it's -- whether
18 Binance -- anything that Binance will not be distributing
19 directly to customers as their original distributions is my
20 understanding, is being converted to cash; is that right?
21 I'll ask the Debtors.

22 MS. OKIKE: That's correct, Your Honor.

23 THE COURT: Okay. I think that's been stated in
24 the plan. So what's been held in reserve, am I right, is
25 just cash?

1 MS. OKIKE: Yes.

2 THE COURT: Okay.

3 BY MS. SCHEUER:

4 Q Mr. Renzi, was part of your assumption that 450 million
5 would be converted into cash immediately or --

6 A I --

7 Q Your assumptions in the sale toggle or liquidation
8 analyses, did you assume that 455 million would be converted
9 into cash immediately?

10 A I don't think my declaration addresses the 455 -- 445
11 million.

12 Q But your declaration does provide that if you had to
13 liquidate those coins immediately it would be a significant
14 depreciation in a Chapter 7 case between 20 to 26 percent
15 for liquidating all of the coins; is that correct?

16 A Your Honor, I don't follow the -- I don't understand
17 the question.

18 THE COURT: Explain --

19 MR. SHEHADEH: I don't think (indiscernible)
20 question was clear.

21 THE COURT: How -- explain how the value of the
22 coins is being determined under the Binance deal.

23 THE WITNESS: Well, the issue that we're getting
24 at is a math issue. So if we have to do it under any
25 circumstance, it's going to affect them all equally. So to

1 the extent that you have to do it under a Binance plan or a
2 toggle plan or even a liquidation plan, it still
3 demonstrates that the plan, under a Binance plan or a toggle
4 plan, is still better than a Chapter 7. So to the extent
5 that it's just simple math, to the extent that you have to
6 liquidate a portion, into cash immediately, it's going to
7 affect all plans relatively equally in terms of the math.
8 It's -- it'll be -- it'll decrease the recoveries overall.

9 THE COURT: Ms. Okike, under the Binance deal, is
10 there a particular date as of which the values of the coins
11 will be measured?

12 MS. OKIKE: The value of the coins?

13 THE COURT: Yes.

14 MS. OKIKE: Yes, Your Honor.

15 THE COURT: And what is that date?

16 We're going to take a ten-minute break while you
17 figure that out. I thought I remembered that under the
18 Binance deal, the value of the coins would be determined as
19 of market prices on a particular date. In other words, they
20 wouldn't just be whatever they happen to be actually sold at
21 when the transfers happened.

22 MS. OKIKE: Yes, Your Honor.

23 THE COURT: It would be fixed based on other
24 market terms.

25 MS. OKIKE: So it's no later than the date that is

1 one business day prior to the closing.

2 THE COURT: Okay. All right.

3 MS. OKIKE: It's a moving target.

4 THE COURT: So in other words, they'll be based on
5 a market that will be -- that won't be affected by these
6 particular coin transfers.

7 MS. OKIKE: Correct.

8 THE COURT: It'll be fixed at that market price.

9 MS. OKIKE: Correct.

10 THE COURT: All rights. Let's just take ten
11 minutes, okay? We are in recess for ten minutes.

12 (Recess)

13 THE COURT: Please be seated. By the way, I'm not
14 sure that the disclosure statement is officially in
15 evidence. I think it ought to be.

16 MR. SLADE: Yes. Your Honor, we move to -- we
17 offer Exhibit 12 and 13 off of our exhibit list, which are
18 the order scheduling the hearing with the disclosure
19 statement and the actual disclosure statement. Those are at
20 Dockets No. 861 and 863.

21 THE COURT: I'll admit those into evidence. So
22 they need to be in evidence, because that's what some of the
23 objections are addressed. Please proceed.

24 (Exhibits 12 and 13 entered into evidence)

25 MS. SCHEUER: Thank you, Your Honor. For the

1 record, Therese Scheuer for the Securities and Exchange
2 Commission.

3 BY MS. SCHEUER:

4 Q Hello again, Mr. Renzi. Mr. Renzi, just before the
5 break, I think we heard that the value of coins would be
6 fixed two days prior to the closing of that, correct?

7 A I believe so, yes.

8 Q And when will closing occur?

9 A I think that it's -- I understand it's a moving, a
10 little bit of a moving target, but sometime in April
11 hopefully.

12 Q So could the -- could liquidating \$445 million worth of
13 coins affect the value of coins when they're fixed at that
14 date?

15 MR. SLADE: Your Honor, I would object to relevance, and
16 it's also outside the scope.

17 THE COURT: You can answer. I'll overrule the objection.
18 You can answer.

19 BY MS. SCHEUER:

20 A You mind asking again? Thank you.

21 Q Sure. So could liquidating the \$445 million worth of
22 coins in connection with the FTX settlement, could
23 liquidating that amount of coins affect the value of the
24 coins when they're fixed two days prior to closing?

25 THE COURT: Can I just make sure I understand?

1 Are you asking him if they will be liquidated before the
2 closing or are you asking him, would it have such a effect?

3 MS. SCHEUER: Would it have such an effect.

4 THE COURT: If it happened.

5 BY MS. SCHEUER:

6 A I think the goal is to do as much rebalancing as
7 possible, you know, before closing. So to the extent that
8 that's done, it -- the answer is, it depends. I mean, if
9 you're not able to do a sufficient amount of rebalancing
10 between now and then and then you have to do immediately,
11 then it's certainly very problematic but right now, we're
12 trying to avoid having that problem.

13 Q So is liquidating \$445 million worth of coin, that
14 would be -- that's part of your rebalancing transaction?

15 A I believe it is part. It's part of it. we're trying
16 to rebalance. We're rebalancing every day, throughout the
17 day, right now.

18 Q And so you're trying to balance as much as you can
19 prior to closing; is that correct?

20 A We're trying to rebalance as much as we can prior to
21 closing.

22 Q I think your --

23 A And hopefully, we'll be -- we'll meet that goal.

24 Q I think your prior testimony was that the major delta
25 between the sale transaction and a Chapter 7 liquidation or

1 the toggle transaction but primarily the Chapter 7
2 liquidation was having to sell all of those coins by April
3 18th; is that correct?

4 A Well, the issue is, and I think I spell it out in my
5 declaration, is if we have to convert, there's a period of
6 time that you have to convert and it will take more time to
7 address any issues that the Chapter 7 Trustee would have and
8 monetize into cash to the extent that we have it. And then
9 furthermore, there are unsupported coins that aren't going
10 to be able to be addressed easily in a Chapter 7.

11 Q But your prior testimony was that the market depth
12 constraints were the -- I think the significant reason for
13 the difference between the sale transaction and the Chapter
14 7 transaction because in Chapter 7, you assumed the Trustee
15 would liquidate the coins immediately by April 18th.

16 A To the extent that, I mean, if any of the rebalancing
17 hasn't been done or we have to monetize any other coins and
18 convert it into cash, there is going to be a significant
19 amount of issues in terms of market constraints and it will
20 lower recovery.

21 Q Do you -- is it your view that liquidating \$445 million
22 worth of coins now would it impact the liquidation analysis
23 that we've set forth?

24 A If you have to liquidate coins immediately, right now,
25 it will decrease the amount of recoveries across all

1 scenarios.

2 Q But in the sale transaction, your assumption was that
3 they would all be liquidated immediately. So isn't the
4 impact really on the sale transaction or the toggle in
5 decreasing the recovery so that the delta between the sale
6 and Chapter 7 is much smaller than is in your liquidation
7 analysis?

8 A I don't think you stated my testimony correctly.

9 Q How so?

10 A You just said, I think what -- number one, I think you
11 had made a statement. I'm not sure I follow all of your
12 statement, but I think the issue is that, you know, under a
13 transaction, a sale, you're maximizing value. You are
14 rebalancing these coins. You are getting proceeds from the
15 Binance transaction and there's less of a market discount
16 because you're doing it in an orderly fashion.

17 To the extent that you don't do it in an orderly
18 fashion and it has to convert, it's left to people that are
19 less familiar with cryptocurrencies. There's going to be a
20 diminution in value.

21 Q Okay. All right, I think we can move on. Thank you.
22 Mr. Renzi, how do you assess the impact of pending
23 regulatory actions and investigations? Did you assess what
24 that impact would be on investor recovery or could be on
25 investor recovery? Was that included in your analysis?

1 A I discussed any regulatory issues with counsel, make
2 sure that I understood them.

3 Q Was that modeled in your analysis, included in your
4 numbers?

5 A It is included.

6 Q How so?

7 A There -- to my understanding and actually in the
8 discussion earlier today in Court, there are issues that are
9 still unresolved by regulators. And so as far as I know,
10 everything that we're doing in terms of rebalancing has been
11 improved -- approved by the Court to do so. And we're
12 following the Court rules and what's been approved to do by
13 the Court.

14 And we've done that in a transparent fashion with the
15 approval of the UCC and their advisors and I don't think
16 that that speaks to your question in terms of how that is
17 addressed from a regulatory environment that's evolving and
18 we're trying to comply with whatever -- all the rules that
19 we -- have been set out for us by this Court.

20 Q But there was no kind of risk or a some kind of
21 percentage in your numbers that could -- that kind of covers
22 regulatory risks?

23 A No.

24 Q Whether CFIUS approves the transaction impacts whether
25 stakeholders get paid; is that right?

1 A I think -- are you asking -- I don't understand the
2 question. Are you asking if CFIUS prevents the transaction?

3 Q Mm hmm.

4 A Yes, there -- we would have to go into a toggle plan.

5 Q And what happens if CFIUS decided to deny approval
6 after the sale had closed? What would happen to investors?

7 A I would defer to counsel.

8 Q But that wasn't included in your numbers, your
9 estimates?

10 A If we need to toggle, we have the provision to toggle
11 into a toggle liquidation plan.

12 Q But if CFIUS denies approval after closing, the toggle
13 plan is no longer possible. That wasn't included in your
14 numbers; is that correct?

15 A I don't think there's any numerical quantification of
16 --

17 Q Okay.

18 A -- CFIUS.

19 Q Okay. Why do you think this is a good deal for
20 investors?

21 A This deal is -- satisfies the best interest test. It's
22 approved by 97 percent of our customers. It is maximizing
23 value, as proven by the analysis that's provided in my
24 declaration. Those are among the most -- the reasons.

25 Q It is approved by 97 percent of your customers --

1 MR. SHEHADEH: I'm going to object to that,
2 please. It's approved 97 percent of the customers at a
3 certain level. (indiscernible) based on how much money each
4 creditor has, so that's 97 percent of maybe like the top
5 five creditors (indiscernible) on the plan.

6 THE COURT: Okay, who is speaking right now?

7 MR. SHEHADEH: Alah Shehadeh, Your Honor, for the
8 record.

9 THE COURT: Mr. Shehadeh, you cannot interrupt
10 questions and answers to argue over the answer. Okay? You
11 can only speak when it is your turn to question a witness or
12 when it is your turn to offer evidence or if you have an
13 objection that is based on a rule of evidence as to the form
14 of a question. I've said this now, I think, three times.
15 You cannot interrupt just to disagree with the witness. It
16 is not appropriate and you have to stop doing it, okay?

17 Please proceed, counsel.

18 THE WITNESS: Your Honor, I'm happy to rephrase my
19 statement.

20 BY MS. SCHEUER:

21 A So of the people voting, 97 have voted in favor.

22 Q Thank you. So of the 6 percent voting, 97 percent of
23 those 6 percent. Is that --

24 A I just want to say, of -- I think my testimony stands
25 on its face.

1 Q Thank you, Mr. Renzi. Wouldn't account holders be just
2 as well off if they could get their -- if they could get
3 coins back into their own wallets without this uncertainty?

4 A I'm sorry, can you repeat the question, please?

5 Q Wouldn't account holders be just as well off if they
6 could get coins back into their own wallets without this
7 uncertainty?

8 A I believe that this transaction provides incremental
9 value for customers and is overwhelmingly voted in favor and
10 the customers that are voting believe this, too. So I
11 believe that what we're doing is value maximizing.

12 Q And that incremental value is that the 20 million
13 that's being paid by Binance?

14 A It's at least 20 million, for sure, but also we believe
15 that the amount of recoveries is going to be higher based on
16 the construct of the Binance plan.

17 Q Mr. Renzi, I just have a couple of questions left.
18 What is the Debtors' current cash position?

19 A Your Honor, can I ask one of my associates the current
20 cash position?

21 THE COURT: Do you know what it is?

22 THE WITNESS: I don't have it in front of me.

23 THE COURT: Do you have a range, rough approximation?

24 MR. SLADE: I apologize. I didn't hear the question.

25 THE COURT: What is the Debtors' current cash position?

1 BY MS. SCHEUER:

2 Q Do you have a ball park, Mr. Renzi, more or less than
3 10 million?

4 A It's more than 10 million.

5 Q More than 10 million. More than 20 million?

6 A It -- they have more than \$20 million of cash.

7 Q More than 40 million?

8 A Yes, they have more than \$40 million of cash.

9 Q And what will that cash be used for under the plan?

10 A It's spelled out in the plan in terms of, to the extent
11 that administrative costs need to be paid and priority costs
12 need to be paid, the cash will be used to be paying
13 administrative and priority claims.

14 Q What is the amount of professional fees that remain
15 outstanding?

16 A I don't have that in front of me.

17 Q Will the money that Binance is providing as part of the
18 transaction, will that 20 million go to professional fees?

19 A The 20 million will -- is fungible and goes into the
20 entire estate so --

21 Q So it could go to professional fees?

22 A I view the cash as fungible for the estate.

23 Q Okay. Would it -- is there any provisions that it
24 would, the \$20 million that's being paid would go to account
25 holders?

1 A I think I answered the question. It's fungible --

2 Q Okay.

3 A -- for the estate.

4 Q Okay. All right. Thank you, Mr. Renzi. I have no
5 more questions.

6 THE COURT: All right, is there anybody else in
7 the courtroom who has questions for Mr. Renzi?

8 MR. SHEHADEH: Your Honor -- yes, I have
9 questions, Your Honor.

10 THE COURT: No, you -- let me deal with the people
11 who are present in the courtroom first, okay? Counsel, who
12 -- you are?

13 MR. ST. JOHN: Yes, Your Honor. For the record,
14 Jason St. John on behalf of the New York State Department of
15 Financial Services.

16 THE COURT: Okay.

17 CROSS EXAMINATION OF MARK RENZI

18 BY MR. ST. JOHN:

19 Q Morning, Mr. Renzi. Just a few questions.

20 A Good morning. Afternoon.

21 Q You're correct. Good afternoon. If I understood your
22 direct testimony correctly, Voyager currently has the
23 personnel to toggle to the liquidation plan under the plan,
24 correct?

25 A Do you mind bringing the microphone up?

1 Q I apologize.

2 A Yeah, thank you.

3 Q If I understood your direct testimony correctly,
4 Voyager has the personnel and ability to toggle to
5 liquidation under the plan, correct?

6 A They have the ability to execute under a Binance plan
7 and a toggle plan.

8 Q Okay. And under a toggle plan, cryptocurrency will be
9 returned to account holders, correct?

10 A Yes.

11 Q Okay. Should the sale transaction go forward,
12 customers in supported jurisdictions have the option to
13 become customers of Binance.US; is that correct?

14 A Yes.

15 Q Okay. And if a person in a supported jurisdiction
16 chooses not to become a customer of Binance.US, their claims
17 will be liquidated and paid out in cash three months after
18 closing; is that correct?

19 A Believe so.

20 Q Okay. And if an account holder in an unsupported
21 jurisdiction -- let me rephrase. An account holder in
22 unsupported jurisdiction in the circumstances Binance.US
23 does not attain licensure, has to wait for six months after
24 closing for their claims to be liquidated, correct?

25 A Yes. To the extent that there are unsupported states

1 and that it does not -- and then Binance is not able to get
2 the supported states to work with customers, it'll take
3 another six months.

4 Q Okay. And that additional time is so that Binance.US
5 has the opportunity to become licensed in unsupported
6 jurisdictions?

7 A Yes. I think they do have the opportunity to become
8 licensed in unsupported jurisdictions.

9 MR. ST. JOHN: That's all. Thank you, Your Honor.

10 MR. BRUH: Your Honor, Mark Bruh for the United
11 States Trustee. While we didn't formally object to a
12 liquidation, I would like to ask the witness a few questions
13 if the Court would allow.

14 THE COURT: Go ahead.

15 MR. BRUH: Thank you.

16 CROSS EXAMINATION OF MARK RENZI

17 BY MR. BRUH:

18 Q Mr. Renzi, my name is Mark Bruh. I'm an attorney for
19 the United States Trustee and I just have a few questions
20 regarding liquidation, specifically Chapter 7 analysis from
21 your affidavit and declaration that's admitted into
22 evidence. But before I start that, I just wanted to ask a
23 background question, kind of pivot -- I guess piggybacking
24 on the question from Ms. Scheuer and the SEC. You said the
25 cash position of the Debtors is in excess of \$40 million; is

1 that right?

2 A I did.

3 Q Okay. Do you know how the crypto holdings are broken
4 down by the Debtor as of today?

5 A In terms of the coin balances?

6 Q Or for example, when the plan was submitted, there was
7 -- it said there was about \$1.1 billion of assets, not
8 including the infusion from Binance, and today we heard that
9 it's about 1.34 billion, so there's been an increase because
10 there's cryptocurrency and it's gone up in value.

11 A Yes.

12 Q Do you know how much stable coin the Debtors hold today
13 that's pegged one to one with the U.S. dollar?

14 A I have supporting schedule, not in front of me, but I
15 would have to refer to that schedule.

16 Q Can you refer to it? Was it attached to your
17 declaration?

18 A I don't believe it was attached to my declaration.

19 Q Do you know how much Bitcoin the Debtors are holding
20 today?

21 A I believe it's over 8,000 Bitcoin, but --

22 Q Eight thousand. Okay. And do you know how much
23 Ethereum they're holding today?

24 A I don't have that in front of me.

25 Q Okay. And then the rest --

1 A The issue, Your Honor, is that we're rebalancing coins
2 every day. And so to the extent that those have been
3 rebalanced, I don't have those numbers in front of me.

4 Q Okay.

5 A But it's happening --

6 Q The -- my questions were going to the FTX settlement
7 because it's my understanding under the proposed settlement
8 which hasn't been approved by the Court yet that \$445
9 million worth of crypto would be converted to fiat currency.
10 And do you know which crypto will be converted?

11 MR. SLADE: Your Honor, I object again. This is
12 not in front of the Court. I don't see how this is
13 relevant.

14 THE COURT: Can I -- there's an awful lot of
15 confusion reflected in the questions here. Let me just --
16 let me just ask something. As I understand the Binance
17 deal, all of the Debtors' cryptocurrency will be transferred
18 to Binance. It will be designated -- or there will be
19 designations as to what will be distributed to customers.
20 But other than what is distributed to customers, it'll just
21 be bought by Binance; is that correct?

22 MS. OKIKE: Your Honor, the plan is actually set
23 up that crypto will only move to Binance as customers sign
24 up for --

25 THE COURT: As and when they need it. Okay.

1 MS. OKIKE: So it will transfer on a weekly basis
2 for the customers that have signed up during, you know, the
3 prior week.

4 THE COURT: And what crypto that the Debtors hold
5 that is not necessary or not part of those initial
6 distributions to customers?

7 MS. OKIKE: The Debtors will continue to hold that
8 cryptocurrency as customers sign up and it'll be transferred
9 on a weekly basis.

10 THE COURT: But I thought I understood that, you
11 know, the Debtors will make initial distributions. There
12 are all kinds of reserves that need to be established, so
13 people will get their initial distributions. I thought
14 otherwise, the Debtors were liquidating their cryptocurrency
15 holdings; is that right?

16 MS. OKIKE: Your Honor, we will be liquidating,
17 but we have the opportunity for customers in supported
18 jurisdictions, they have three months post closure to sign
19 up. If they don't want to sign up for the Binance platform
20 at that time, their distributions are liquidated into cash.
21 They'll be sent back to the company and the company will
22 make those distributions. Same for customers in unsupported
23 jurisdictions. We're hopeful, again, that approvals are
24 reached, you know, five or six months, but if they're not,
25 that cash will be liquidated either by --

1 THE COURT: So whatever cash you need to set up
2 this reserve for FTX Alameda will be obtained by market
3 liquidations or by sale to Binance?

4 MS. OKIKE: Market liquidations, Your Honor, and
5 Binance may be a counterparty to that.

6 THE COURT: Okay.

7 MS. OKIKE: But over time. We've already
8 obviously begun the rebalancing exercise and we are doing it
9 with the understanding that we are going to likely have to
10 hold back 445 million, given the asserted administrative
11 priority claim.

12 THE COURT: But when you say that the Debtor has
13 1.3 billion of cryptocurrencies and that the Binance deal is
14 therefore 1.32, from what you're telling me now, Binance
15 isn't buying all of that.

16 MS. OKIKE: They're not purchasing crypto, yes,
17 Your Honor. The crypto -- they're really serving as a
18 distribution agent for customers under the plan. They are
19 providing incremental value both in terms of the up-front
20 cash consideration as well as the expense reimbursement and
21 the transaction structure really provides over 100 million
22 of incremental value than the toggle transaction because of
23 the feasibility of --

24 THE COURT: Yeah, I understand the arguments about
25 why it results in more, but it's just -- so in other words,

1 Binance is not buying all of your crypto. Some of it will
2 be liquidated in the market.

3 MS. OKIKE: Correct. We actually don't view them
4 as buying the crypto. We view them as a distribution agent
5 who's facilitating distribution under the plan through their
6 platform.

7 THE COURT: So the only thing they will take
8 custody of is what they distribute to people who become
9 customers --

10 MS. OKIKE: Correct.

11 THE COURT: -- or if in the market you sell them
12 something?

13 MS. OKIKE: Correct.

14 THE COURT: Okay.

15 BY MR. BRUH:

16 Q My concern with the -- talking about FTX was that the
17 conversion to fiat currency, if that's going to happen
18 sooner than later, the settlement is approved, would then
19 your 2 percent projection of transaction fees under a -- for
20 the sale of cryptocurrency, would that be affected by that
21 transaction?

22 A I don't think the 2 percent would be affected, no. I
23 think it's just the estimate for the friction cost to
24 transact in cryptocurrency.

25 Q Now, isn't it -- doesn't transactions of USDC, aren't

1 those transaction fees de minimis?

2 A They are. That's on average, 2 percent.

3 Q But so --

4 A They -- sorry. It's on average 2 percent from my
5 testimony, but you're right, for stable coin, it is less.

6 Q So that's what I was getting at was trying to figure
7 out, because I haven't really seen the coin report as to how
8 much the Debtors' holding is in USDS as opposed to Bitcoin,
9 which I understand has a higher transaction cost, or
10 Ethereum and piggybacking on that, the liquidation under the
11 FTX deal or the transaction, we don't know what coins are
12 going to be sold to convert the crypto to fiat currency; is
13 that right?

14 A I mean, it depends on what scenario we're under, but I
15 think one thing to just clean up is that there is the 2
16 percent friction cost, but then there's a market depth
17 issue, so --

18 Q Right.

19 A The market depth issue and speed also matter. So to
20 the extent that you have to move and liquidate, you know,
21 crypto quickly, you're going to have issues in terms of the
22 market depth, even in Bitcoin and Ethereum.

23 Q And is that the 20 percent number that you had in
24 Paragraph 88 of your declaration?

25 A I can't speak to exact paragraph because it's not in

1 front of me --

2 Q Right.

3 A -- if I had that, but I -- yes, there are discounts, I
4 because of those issues in terms of market depth. So I'm
5 sure you're referencing the right paragraphs.

6 Q I mean, I don't have it in front me, but --

7 A But nonetheless, around --

8 Q But it's the 20 percent number.

9 A There's a 20 percent and then a 26 percent.

10 Q Right. And does that take into account, because on
11 September 2nd of 2022, Bitcoin was trading at about, just
12 under 20,000 and today it's trading in excess of 23,000. So
13 is that 20 percent number still accurate?

14 A It is and more importantly is that it wasn't just done
15 by -- it wasn't done in aggregate. It was done by coin and
16 then it was done with market makers and Moelis and the UCC
17 advisors to make sure that we had the appropriate
18 comprehensive set of information to make sure that we
19 understood what would happen relative to market depth and
20 moving coin quickly or slowly in a rebalancing transaction.
21 So it was very well informed, well analyzed, you know, not
22 only with the advisors here but also with market
23 participants that are market makers.

24 Q What is your basis that a Chapter 7 Trustee cannot make
25 in-kind distributions to creditors if the case is converted?

1 A Basis is based on discussions with counsel and that the
2 understanding is that in my assumptions that would need to
3 be done quicker and that in-kind distributions would be
4 quite challenging. You know, if a U.S. Trustee -- excuse
5 me, if a Chapter 7 Trustee was to do that.

6 Q So for Chapter 11, if -- strike that. If the Debtor
7 toggles to a liquidation, the Binance deal doesn't go
8 through and the Debtor has to make distributions to its
9 customer base, can Voyager do that or will it have to go out
10 to a third party platform to make those distributions?

11 A Under what scenario? I'm sorry.

12 Q Under liquidation, if the Binance deal doesn't go
13 through.

14 A So under a toggle plan --

15 Q Right.

16 A -- you can use the Voyager platform to make
17 distributions.

18 Q So Voyager would have to be restarted and then it would
19 start making distributions to its customer base; is that
20 right?

21 A Yes. It would -- they would make distributions.

22 Q And it's your opinion that under a conversion to
23 Chapter 7, a Chapter 7 Trustee doesn't have a platform to
24 make these distributions, so there would be some sort of
25 costs associated with it; is that right?

1 A There is a cost associated with it. There -- we
2 believe that also it's a timing issue, too.

3 Q Can you explain the timing issue to me a little more,
4 elaborate on that?

5 A My understanding is you have to set a new bar date.
6 You have to restart part of the process. It would take
7 quite a bit of time to effectively get cryptocurrency to
8 clients. And then, furthermore, I would be very concerned
9 about the employees under a Chapter 7 plan if they would be
10 participants in a Chapter 7 plan.

11 Q Yeah. Okay. There's -- but a Chapter 7 Trustee can
12 make interim distributions to creditors, right?

13 A Yes. I believe so. But they would -- if we had to
14 make distributions it would be in cash, is my understanding.

15 Q But there's no -- what is your -- what is that based on
16 that it has to be in cash? Why can't a Chapter 7 Trustee
17 make in-kind distributions on an interim basis to the
18 customers?

19 A You can't deposit cryptocurrency into a bank account.

20 Q Correct.

21 A That's why.

22 Q But it's being held --

23 MR. SHEHADEH: (indiscernible).

24 THE COURT: Don't interrupt. I'm tired of telling
25 you. Do not interrupt. All right?

1 MR. SHEHADEH: (indiscernible).

2 THE COURT: Don't speak over the witness. Don't
3 interrupt just because you disagree. I'm tired of giving
4 you the same warning. Go ahead, Mr. Bruh.

5 MR. BRUH: Thank you, Your Honor.

6 BY MR. BRUH:

7 Q And I understand that, because the crypto today is not
8 being held in a bank account; isn't that right?

9 THE COURT: Mr. Bruh, Section 704(a) of the
10 Bankruptcy Code says "the Trustee shall collect and reduce
11 to money, property of the estate." Are you saying that's
12 not what the Trustee has to do in the Chapter 7 case?

13 MR. BRUH: No, Your Honor.

14 THE COURT: Then what's the point of these
15 questions?

16 MR. BRUH: Okay, I'll move on, Your Honor.

17 THE COURT: Go ahead.

18 BY MR. BRUH:

19 Q I guess my last question to you is what's your
20 experience in Chapter 7 bankruptcies?

21 A Limited.

22 Q Okay.

23 MR. BRUH: I have no further questions, Your
24 Honor.

25 THE COURT: Okay. Anybody else in the courtroom

1 who wishes to cross examine the witness? Okay. Is there
2 anybody on the line who wishes to cross examine the witness?

3 MS. RYAN: Good afternoon, Your Honor. This is
4 Abigail Ryan with the State of Texas and I have some
5 questions for the witness.

6 THE COURT: Okay, Ms. Ryan, please proceed.

7 MS. RYAN: Thank you, Your Honor.

8 CROSS EXAMINATION OF MARK RENZI

9 BY MS. RYAN:

10 Q Good afternoon, Mr. Renzi. I'm going to kind of shift
11 to a more basic question for you. You're aware that Alameda
12 has a loan facility claim for \$75 million, right?

13 A I am.

14 Q And is it the Debtors' plan to subordinate that claim?

15 A Yes.

16 Q And do you have an estimated likelihood of success that
17 it will be subordinated?

18 MR. SLADE: Your Honor, I object. That's not
19 relevant. It's also outside the scope of this witness'
20 testimony.

21 THE COURT: I'm not sure how this ties into your
22 objection or as to the issues, Ms. Ryan. Could you explain
23 to me where you're going with this?

24 MS. RYAN: Absolutely, Your Honor. My objection
25 is that the account holders weren't given enough disclosures

1 as to the percentage that their recovery could drop down to
2 in different situations. Mr. Renzi in his affidavit
3 testified that his numbers are based upon the Debtors
4 getting the \$75 million at Alameda loan facility
5 subordinated, but there's no mention in his declaration what
6 the numbers would be under the Binance plan or toggle plan -
7 -

8 THE COURT: Okay.

9 MS. RYAN: -- if they weren't successful in
10 subordinating.

11 THE COURT: Do you know the answer, Mr. Renzi?

12 THE WITNESS: It would be the amount of recovery
13 on the \$75 million, the percentage recovery there, and then
14 it would dilute the rest of the claims pool. I'd have to
15 spend a little bit of time running that number.

16 THE COURT: Ms. Ryan, are you asking the witness
17 what would happen if the loan was not subordinated at the
18 holding company and TopCo level or are you asking him what
19 would happen if the operating company were found to be
20 liable on the loan?

21 MS. RYAN: Well, they'll be -- I have two
22 questions, Your Honor. One is, as to the --

23 THE COURT: You do understand --

24 MS. RYAN: -- subordination of the loan facility

25 THE COURT: You do understand, don't you, that

1 under the terms of the loan documents, the named borrower is
2 not the operating company where the customers are. Alameda
3 has asserted that the named company, that the operating
4 company should be liable. So are you asking what would
5 happen if the operating company were found liable on that
6 loan or are you asking about what would happen at the parent
7 company levels, because subordination at the parent company
8 levels really doesn't mean anything for the recoveries of
9 the customers.

10 MS. RYAN: So I'll explain this in a different way
11 and maybe you'll see where I'm going, Your Honor.

12 THE COURT: Okay.

13 MS. RYAN: In the disclosure statement on Page 55,
14 it states that recovery for both account holders' claims and
15 OpCo General Unsecured Claims would be reduced to
16 approximately 24 percent from 51 percent under the sale
17 transaction if the Alameda loan facility claim is not
18 subordinated and Alameda prevails in its alleged preference
19 claim.

20 And so they're asserting in the disclosure
21 statement that both would have an effect on distribution.
22 And so what I'm wondering is, that was not mentioned in Mr.
23 Renzi's declaration, but it is something that creditors have
24 the right to know. What would happen to the recovery if
25 one, as they say, the subordination isn't successful; and

1 two, this \$445 million preference claim, Alameda wins on.

2 THE COURT: But you just told me that creditors
3 were entitled to know it, but didn't you just read the
4 answer from the disclosure statement?

5 MS. RYAN: So one would think that would be the
6 answer, Your Honor; however, the disclosure statement and
7 the affidavit submitted by Mr. Renzi, they kind of conflict
8 in this regard. Under a Chapter 7 in the disclosure
9 statement, the creditors would actually do better than the
10 toggle plan and that's not discussed in Mr. Renzi's
11 affidavit that under the toggle plan if the two Alameda
12 issues were successful in Alameda's favor, toggle plan, sale
13 plan both, it's going to drop to 24 to 26 percent, depending
14 on which paragraph you read in the disclosure statement.

15 THE COURT: Aren't you assuming that the Alameda
16 issues only affect recoveries under the Chapter 11 plan and
17 would not also affect recoveries under a Chapter 7
18 liquidation?

19 MS. RYAN: No, Your Honor. I think it would
20 affect recoveries under a Chapter 7 liquidation, too. And
21 so what I would like Mr. Renzi to explain to me is if
22 Alameda is successful on both of those counts as they set
23 out in the disclosure statement, what percentage of recovery
24 or range -- because I know we have moving parts here --
25 would account holders receive under the Binance plan, under

1 the toggle plan, and under a plan of liquidation, because
2 it's not clear from the disclosure statement or Mr. Renzi's
3 affidavit.

4 THE COURT: Do you know the answer, Mr. Renzi?

5 THE WITNESS: Your Honor, it would take some time
6 to do that, but it would decrease the recovery across all
7 scenarios but still under the plan and under the toggle
8 plan, it would still be greater than under a liquidation
9 scenario.

10 BY MS. RYAN:

11 Q Mr. Renzi, in the disclosure statement itself, it
12 specifically says on Page 55 under Item B, the Alameda loan,
13 that underneath the toggle transaction and in the Chapter 11
14 cases, the recoveries would be reduced to approximately 24
15 percent. And likewise, in the disclosure statement, it says
16 that under Chapter 7, the possible return would be a 35 to
17 39 percent. So doesn't that show that a Chapter 7 would
18 actually be more beneficial than the toggle plan for the
19 sale?

20 THE COURT: You can answer the question. Go
21 ahead.

22 BY MS. RYAN:

23 A Yeah. So number on, I don't follow your math. It's
24 just -- it's very simple. You can't just pick and choose
25 whether or not -- it only works whether or not the 75

1 million is subordinated only in the liquid -- under the
2 Binance plan and then not in the liquidation. I mean, I
3 think you have to use it uniformly, in my expert opinion,
4 across all plans.

5 Q I agree with you.

6 A So the issue --

7 Q I completely agree with you.

8 THE COURT: Does the 39 --

9 BY MS. RYAN:

10 Q But in the disclosure statement --

11 THE COURT: Does the 39 percent number that was
12 quoted by counsel assume that there is no Alameda claim in a
13 Chapter 7 liquidation?

14 THE WITNESS: In my declaration, it highlights and
15 if I could have my declaration, that'd be great so I can
16 answer you directly, Your Honor. It highlights the
17 recoveries you have under a subordination of the \$75 million
18 claim.

19 THE COURT: Okay.

20 THE WITNESS: Under all four --

21 BY MS. RYAN:

22 Q And does your affidavit include a scenario if Alameda's
23 \$445 million preference claim is successful?

24 A It would further -- it would be a further reduction,
25 yes, under all four scenarios.

1 Q But is that in your affidavit? Did you discuss the
2 \$445 million preference claim?

3 A I'm testifying to that now.

4 Q Okay, so it wasn't in your affidavit, right?

5 THE COURT: Ms. Ryan -- Ms. Ryan, just, I'm
6 confused by all this because isn't this basic mathematics
7 that if you calculate percentage recoveries in three
8 scenarios and you conclude certain amounts and then you
9 calculate what the percentages would be if you add
10 additional unsecured claim amounts in each of the same three
11 scenarios, as long as you're doing apples to apples
12 comparison, you still find out that the -- if under the
13 original calculation, the Binance came out highest, it still
14 would. If the toggle came in second, it still would. And
15 if the Chapter 7 calculation came in third, it still would.

16 That's just indisputable.

17 MS. RYAN: Your Honor, I agree.

18 THE COURT: It's indisputable mathematics.

19 MS. RYAN: It is simple. It's very simple
20 mathematics. However, this information wasn't presented to
21 any of the creditors in the disclosure statement and this is
22 something that I believe should have been disclosed so that
23 they can have a fair reading of these percentages and what
24 could possibly happen. When reading the disclosure
25 statement, you know, and specifically in the Paragraph 55,

1 it makes it look like the toggle plan would be worse than
2 the Chapter 7 and I don't believe there was adequate
3 information in Mr. Renzi's affidavit to show, okay, let's do
4 the math. If Alameda's successful, how much do they all
5 decrease by? And I think that that should have been
6 disclosed and it's not.

7 THE COURT: Are you saying that you think
8 customers were misled into thinking that the Chapter 11 plan
9 was a bad deal? I mean, 97 percent of them voted in favor
10 of it.

11 MS. RYAN: I'm saying --

12 MR. SHEHADEH: Yes.

13 MS. RYAN: Your Honor, I'm saying that I don't
14 believe they were given adequate information as to what
15 would happen if this Alameda \$75 million loan facility claim
16 and the preference claim of \$445 million was successful in
17 Alameda's favor and what that would look like for them.

18 I believe that regardless of whether it's
19 stretched out across Binance plan, toggle plan, liquidation
20 plan is that we all decrease by that amount, meaning the
21 Binance plan would still be higher under simple math; they
22 still should have been given those numbers because, yes, the
23 disclosure statement is a bit misleading when you read a
24 portion of it and it says under the Chapter 7 scenarios,
25 you'll get 34 to 39 percent back, but if Alameda is

1 successful under the plan and under the toggle, you're only
2 going to get 24 percent back. And in another section, it
3 says 26 percent back. I don't think that our accountholders
4 have actual numbers that they can hang their hat on.

5 THE COURT: Okay. So do we need more evidence on
6 this point or is the rest of that for argument as to whether
7 the disclosure was sufficient?

8 MS. RYAN: Your Honor, I would appreciate, if
9 there is more evidence, I think the percentages would be
10 very helpful in that regard. The witness doesn't -- witness
11 said he'd have to sit down and try to figure them all out.
12 So it's not something that he actually has right now. So it
13 wasn't in the disclosure statement. It's not something we
14 have available at the moment.

15 So I'm not sure what other evidence -- we can save
16 it (indiscernible) Your Honor.

17 THE COURT: I'm sorry --

18 MS. RYAN: We can save it for argument, Your
19 Honor, and I'll change my subject of questioning.

20 THE COURT: Okay.

21 MS. RYAN: Thank you.

22 BY MS. RYAN:

23 Q So when you were determining if the Binance deal, Mr.
24 Renzi, was in the best interests of the creditors, did you
25 read the Binance terms of use?

1 A Members of my team did.

2 Q And were you made aware, since it's your team, of the
3 possibility that the accountholder's information can be
4 stored anywhere in the world that Binance.US sees fit?

5 MR. SLADE: Your Honor, I object. That assumes
6 facts not in evidence.

7 THE COURT: All right. I guess that's right,
8 technically. I don't have the Binance terms of use on file.
9 Is there a dispute as to what they say?

10 MR. SLADE: Actually --

11 MS. RYAN: I can re-ask --

12 MR. SLADE: -- a problem.

13 MS. RYAN: I can re-ask that question, Your Honor.

14 BY MS. RYAN:

15 Q So under -- the terms of use were ready by people on
16 your team, correct?

17 A Yes, I believe so.

18 Q And did they bring any concerns to your attention
19 regarding those terms of use?

20 A They're not lawyers. I think they just brought up the
21 fact that to the extent that the Binance plan does not work,
22 we have a toggle plan, and if the terms of use become so
23 problematic as you're highlighting, we do have an option to
24 go to the toggle plan.

25 Q And are you an expert in regulatory issues?

1 A No. I'm not.

2 Q Did you have anyone on your team who was reviewing the
3 terms of use that was an expert in regulatory issues?

4 A No.

5 Q Do you know under the Binance plan, is it possible for
6 Binance to make a one-time distribution to creditors?

7 A I understand that the Binance plan that those weekly
8 distributions to -- through the Binance platform and to the
9 extent that someone elects to have an account with them and
10 they would like to take the crypto off of the exchange, that
11 would be the methodology for -- to do that.

12 Q Okay. And so it's my understanding the six-month
13 waiting period for the nonconsenting jurisdictions is to
14 give Binance the ability to get licensed in those
15 jurisdictions; is that right?

16 A Yes, that's my understanding.

17 Q And do you know or do you have knowledge that Binance
18 has yet to file a request for licensure with the Texas State
19 Securities Board or the Department of Banking?

20 A My understanding is they're working with your
21 jurisdiction. I don't know the extent, where that lies
22 right now.

23 Q And are you aware that it is virtually impossible for a
24 license to be approved, whether it be for Binance or anyone
25 else with the Securities Board or the Department of Banking

1 in a six-month period?

2 MR. SLADE: Your Honor, I object. That assumes
3 facts not in evidence.

4 THE COURT: Well, the question was, do you know
5 that to be a fact. Do you? Do you have any idea?

6 THE WITNESS: No.

7 THE COURT: Okay.

8 MS. RYAN: Okay, Your Honor, I will pass the
9 witness. Thank you very much.

10 THE COURT: Okay. There anybody else on the line
11 who wishes to cross examine the witness?

12 MR. SHEHADEH: I'd like to cross examine, Your
13 Honor.

14 THE COURT: Okay. Is that Mr. Shehadeh?

15 MR. SHEHADEH: Yes, Your Honor.

16 THE COURT: Okay, go ahead.

17 MR. SHEHADEH: Your Honor, I'd just like to ask
18 him about the plan.

19 CROSS EXAMINATION OF MARK RENZI

20 BY MR. SHEHADEH:

21 Q When they made that deal with FTX, like (indiscernible)
22 go through or why wasn't there a toggle done then? There
23 would've been more return for the creditors. And I see that
24 both sides have disclosed critical information
25 (indiscernible) the voting and they said in an email that

1 was sent out to customers, they said that if we agree with
2 the deal, we would get a higher return than we would if we
3 did the toggle down effect, which was defective. Don't you
4 agree? Because (indiscernible) not true.

5 MR. SLADE: Your Honor, it's a compound question -
6 -

7 MR. SHEHADEH: And what is --

8 THE COURT: Let's break your question down. Let's
9 break your question down. I think you asked, why was there
10 no toggle at the time of the FTX deal?

11 MR. SHEHADEH: Yes.

12 MR. SLADE: Your Honor, I would object to
13 relevance.

14 THE COURT: Well, go -- let's go ahead.

15 THE WITNESS: Happy to answer, Your Honor.

16 BY MR. SHEHADEH:

17 A So number one, we -- when we were initially, you know,
18 the initial --

19 Q When you say we, who are you referring to?

20 THE COURT: Don't interrupt, please. Let the
21 witness talk. Go ahead.

22 THE COURT: Thank you.

23 BY MR. SHEHADEH:

24 A When we initially were analyzing the transaction with
25 FPs, we worked in consultation with a number of people

1 including the Unsecured Creditors Committee advisors, the
2 company, the Moelis and the rest of the advisors and we all
3 agreed as well as did many of the states and other -- in
4 congress believed that FTX was a viable entity.
5 Unfortunately, what's been proven to all of us on the Wall
6 Street Journal every day is that it was a fraud.

7 So our belief at the time, based on the information
8 that we had that FTX was a viable transaction, it was vetted
9 by multiple parties, both the Unsecured Creditors Committee
10 advisors and the company advisors, in terms of the
11 transaction and the toggle plan was not needed.

12 However, based on the facts that we saw unfold over the
13 past few months, we believe that we don't want to see
14 another issue where to the extent that we are uncomfortable
15 with the transaction with Binance for whatever reason, that
16 our main objective was to get crypto back to our customers
17 as quickly as possible, and thus a toggle plan was warranted
18 to make sure that we could do that.

19 Q So to get the crypto back to customers as fast as
20 possible, wouldn't it have just made more sense to just open
21 up the exchange and allow customers to (indiscernible) their
22 crypto off the platform? Isn't that the whole reason behind
23 the Chapter 11 organization? You guys, (indiscernible) the
24 company so you guys would've filed Chapter 7, then Chapter
25 11. And the money that you guys (indiscernible) to Coinbase

1 every day, what is going on with that money? What is that
2 money used for?

3 THE COURT: Okay, you have to ask one question at
4 a time, Mr. Shehadeh.

5 BY MR. SHEHADEH:

6 A Mr. Shehadeh, I think there are a number of assumptions
7 that you would have to make that -- where you would be
8 correct. So the assumption would be, is that there was no
9 bankruptcy laws, and that we could just take assets and move
10 them as quickly as possible. The issue with that assumption
11 is number one, you have to make sure that you're doing
12 things in a fair, transparent way and that is well
13 documented.

14 There is a process of checks and balances in our Court
15 system, in the Bankruptcy Court system. That's imperative
16 and that is to make sure that the company is working through
17 to maximize value in consultation with the Unsecured
18 Creditors Committee and that all customers have the ability
19 to vote for this. And unfortunately --

20 Q (indiscernible).

21 THE COURT: Don't interrupt the answer, please.
22 Go ahead.

23 BY MR. SHEHADEH:

24 A Unfortunately, the construct that you have provided
25 does not provide the provision for voting, nor does it

1 comply with the laws of this country. So I'm trying to do
2 that.

3 Q Object. There's no relevance. We're talking
4 Bankruptcy Court. We're not talking about laws of this
5 country. If you want to talk about laws of this country
6 then everybody in Voyager would be charged with criminal
7 charges right now. So let's not really get into that right
8 there. Anyway, back to my point.

9 Like I said, you guys made a public statement stating
10 that assets were fine, the company was fine, and they are
11 still operable. Five days later, the company filed for
12 bankruptcy. (indiscernible). So instead, you guys
13 (indiscernible) find somebody to buy the company, which is
14 not reorganization, but so when the FTX deal didn't go
15 through, there was a bidding war and I quote -- and this is
16 on Forbes and you can look it up, on Wall Street, there was
17 a bidding war for Voyager and there was a good faith deposit
18 from each one of these companies that wanted to buy Voyager.
19 Where is the good faith deposit and why wasn't it sold to
20 second-highest bidder?

21 And if that didn't work out, why wasn't there a
22 winddown or whatever you guys call it done then? Why was is
23 more months of delegation, litigation, and moving
24 (indiscernible) going to pay Moelis and Kirkland exorbitant
25 fees, that I might add, because they didn't charge Celsius

1 the same fees that they were charging us. Well, we're not
2 going to get into that. It's a whole other subject. But I
3 just want to know, toggle down now with the Binance deal.

4 MR. SLADE: Your Honor --

5 BY MR. SHEHADEH:

6 Q And the SEC objected to. Go ahead.

7 MR. SLADE: Your Honor, I object. To the extent
8 what was a question, he already answered.

9 THE COURT: I think he --

10 MR. SHEHADEH: That was a completely different
11 question. He can answer it.

12 THE COURT: I think the only question I heard
13 there was why was there not a toggle deal, but also why was
14 there not a backup bidder at the time of FTX. I don't think
15 he asked about the backup bidder at the time of FTX before,
16 so you can answer that question.

17 BY MR. SHEHADEH:

18 A We tried to have a backup bidder during the transaction
19 and we were not successful in having one that we could turn
20 to right away.

21 Q So the whole bidding war, that was just all media
22 propaganda? That was a lie?

23 A Your Honor, I don't know how to answer that question.
24 It's talking about --

25 MR. SLADE: It's talking about -- it assumes facts

1 not in evidence again.

2 THE COURT: So you --

3 MR. SHEHADEH: You don't know how to answer a lot
4 of questions.

5 THE COURT: The question is, is the reason why you
6 didn't have a backup bidder, that there wasn't anybody else
7 interested and that the statements that there were other
8 people who were bidding was a lie.

9 THE WITNESS: The statements that I understand are
10 not a lie, Your Honor.

11 THE COURT: Okay.

12 BY MR. SHEHADEH:

13 Q (indiscernible) when FTX bidded for Voyager, only FTX
14 submitted a bid for Voyager?

15 A No, I'm not saying that.

16 Q Okay, then. So there obviously was other bidders. Do
17 you have the name of those other companies

18 A Your Honor, is that a question for me, Your Honor?

19 THE COURT: Mr. Shehadeh, he said there were other
20 bidders. He said they didn't have one who was willing to be
21 --

22 MR. SHEHADEH: Right, which just proves that he
23 just lied and contradicted himself.

24 BY MR. SHEHADEH:

25 Q But anyway, can you name me the other bidders, sir,

1 please? Do you know?

2 A Binance was one of the other bidders.

3 Q So Binance was another bidder. Let's include all the
4 other companies. Binance was -- when we seen that FTX, they
5 (indiscernible) with you guys, was wasn't the deal sent to
6 Binance? And on top of that, why was Binance's deal and
7 incentive lower than what it what it would have been to
8 Celsius? Because Binance (indiscernible) Celsius' people a
9 \$50 incentive. We didn't get nothing like that.

10 A Your Honor --

11 Q So if FTX fell through, why would (indiscernible).

12 THE COURT: I don't understand where --

13 MR. SHEHADEH: That's my question.

14 THE COURT: I don't understand. You know, you've
15 got to stop making speeches and just ask questions, Mr.
16 Shehadeh. We're trying to give you an awful lot of leeway
17 because I know you're not an attorney, but there are rules
18 to how this proceeding goes. It is not time for you to just
19 make argument or complaints, particularly about things in
20 the past that aren't really in front of us today.

21 MR. SHEHADEH: I understand that, Your Honor, and
22 I apologize. You're right. I'm not attorney, Your Honor,
23 but what I'm stating is simple fact and creditors deserve
24 answer so. My money is not a toy to be played with. And
25 this is different situation. We're not dealing with fiat

1 here, we're dealing with crypto. You know, it's a different
2 situation than giving regular money.

3 THE COURT: You have to ask --

4 MR. SHEHADEH: (indiscernible).

5 THE COURT: You -- let me finish. You have to ask
6 questions on matters that relate to what's actually in front
7 of me today. It's not an open mic. It's not a town hall.
8 It's not a gripe session. It's not a radio call in-show for
9 sports news or crypto news. It's not a forum for everybody
10 to air every complaint they have --

11 MR. SHEHADEH: Yes, I understand that, Your Honor.

12 THE COURT: -- about everything that's happened in
13 the past.

14 MR. SHEHADEH: It's not a podcast, it's not
15 (indiscernible). I understand that.

16 THE COURT: Okay, so we have --

17 MR. SHEHADEH: I'm asking a question, Your Honor,
18 I just want an answer to.

19 THE COURT: We have issues in front of us today
20 that don't include why things weren't -- you know, things
21 that weren't done at the time of FTX. Those -- I don't see
22 how that's at all relevant to any of the issues.

23 MR. SHEHADEH: Well, the relevance today, Your
24 Honor, which I'm saying is because had they just did that
25 before, there would've been more money for the creditors.

1 We would've never had that clawback and I don't even see how
2 there is a clawback when we give Alameda \$650 million loan.
3 Isn't that the whole reason why we went into bankruptcy,
4 because they defaulted on that loan? So how do we owe them
5 \$455 million? That's my question.

6 THE COURT: We are where we are. So how does any
7 of that have anything, any bearing on what we ought to do
8 today?

9 MR. SHEHADEH: I'm sorry, can you repeat that,
10 please?

11 THE COURT: I said, we are where we are. We can't
12 undo the past, so how do your questions on those points
13 other than you're being angry about them, how do they have
14 any bearing on what we ought to do?

15 MR. SHEHADEH: Yes, Your Honor. I'm very angry
16 because I have had over \$100,000 in Voyager and they want to
17 give me back 12,000, 13,000 (indiscernible). And my
18 portfolio balance, let's say 18, 19, 25 (indiscernible). So
19 what happened to that extra money? Does that make any
20 sense? I give -- Your Honor, I give you -- you want to buy
21 a hot dog and I give you a hamburger.

22 THE COURT: You have to ask questions.

23 MR. SHEHADEH: (indiscernible).

24 THE COURT: You have to ask questions that are
25 focused on the transactions and proposals that are in front

1 of us today. Okay? I know you're angry about these things,
2 but I don't know how many times I can explain to you that
3 you have to calm down about them and focus on --

4 MR. SHEHADEH: I understand that, Your Honor.

5 THE COURT: -- what we're trying --

6 MR. SHEHADEH: I understand --

7 THE COURT: You also have to -- you also have to
8 not interrupt me when I'm speaking to you. Okay? That's a
9 cardinal rule.

10 MR. SHEHADEH: Your Honor, last time --

11 THE COURT: Stop.

12 MR. SHEHADEH: -- allow me to speak and you cut me
13 off the courtroom --

14 THE COURT: Stop it, stop it, stop it, until I am
15 finished. All right? My patience is wearing thin with you,
16 Mr. Shehadeh. You are not listening to me. You want to
17 conduct the hearing in the manner that you want to conduct
18 it. You have to listen to me. There are issues in front of
19 us today that I am trying to give you the chance to address
20 and I am bending over backwards to tolerate multiple
21 interruptions and refusals to abide by my instructions.

22 But you have to listen to my instructions. You
23 have to abide by them. It's a Court proceeding. I cannot
24 let you hijack it to deal with other gripes that you have
25 about the past. You must understand that and you must

1 accept it and you must calm down and listen to my
2 instructions. And if you have questions, please ask
3 questions about the merits of what we are trying to do today
4 and whether it makes sense to do this today. But all your
5 complaints about other things that happened in the past, I
6 can't change those things. They don't affect what we're
7 doing today. You have to focus on what we're doing today.
8 And if you have objections to what we're doing today, you
9 have to ask to the extent you want evidence and then you
10 have to make objections and arguments based on what we're
11 doing today. But there's an order in which these things
12 have to be done. I can't let you continue to just interrupt
13 the proceedings with gripes about the past. That's not what
14 we're here to do today. It's not what the business of the
15 Court is today. All right? Do you understand that?

16 MR. SHEHADEH: I understand that, Your Honor.

17 THE COURT: Can you follow --

18 MR. SHEHADEH: So can you explain to me --

19 THE COURT: Can you follow those --

20 MR. SHEHADEH: -- what the business of the Court
21 is?

22 THE COURT: Will you -- can you follow those
23 instructions? Are you capable of following them?

24 MR. SHEHADEH: Yes. Yes, I am, Your Honor.

25 THE COURT: All right. Then if you have a

1 question for the witness about what we're dealing with
2 today, please ask it.

3 BY MR. SHEHADEH:

4 Q Okay. Back to with the FTX and (indiscernible). Why
5 wasn't Binance considered a valid backup bidder when FTX
6 deal didn't go through and when that didn't go through, why
7 was there not a winddown then? (indiscernible) that answer.

8 THE COURT: Go ahead.

9 BY MR. SHEHADEH:

10 A They didn't agree to be a backup bidder.

11 Q I'm sorry?

12 A Binance did not agree to be a backup bidder.

13 MR. SHEHADEH: Your Honor, did you hear what he
14 just said?

15 THE COURT: Yes. He said back in the time of the
16 FTX deal, Binance did not agree to be a backup bidder.

17 BY MR. SHEHADEH:

18 Q So if I'm dealing on something and I was bidder one and
19 then he decided not to, wouldn't I be the next step in mind
20 to be a bidder? So if they didn't want to be a backup
21 bidder, that does not make any sense.

22 A I don't understand the rationale for -- Binance is an
23 organization that's well advised. They can make their own
24 decisions. The process for auctioning the assets was well
25 documented and marketed by Moelis. There are multiple

1 participants and it was done in a fair and transparent way,
2 and when you're trying to sell the business to, at that
3 point in time, FTX was the highest bidder, it was done with
4 a number of representatives from the Unsecured Creditors
5 Committee, their advisors, as well as the company and the
6 company's advisors. So it was done completely transparent
7 in my opinion.

8 Q Again, like Judge Wiles said, we're not here about
9 opinions. We're here about facts. So what facts do you
10 have on that?

11 A I believe what I said is a fact.

12 Q In your opinion. We're not here for your belief, sir,
13 we're here for facts. You have any documentation that shows
14 that?

15 A Your Honor, I --

16 Q (indiscernible).

17 A Your Honor, I participated directly in the auction. I
18 can state for a fact that what I said is true.

19 Q Is there any type of information stating about the
20 purchase agreement and what terms it was?

21 MR. SLADE: Your Honor, I object. He answered
22 this question.

23 THE COURT: Sustained. Sustained. We've spent
24 enough time on the -- on last fall. We're here to talk
25 about the deal that's in front of us today. So the

1 objection is sustained. MR. SHEHADEH: Which is what, Your
2 Honor? Can you explain?

3 THE COURT: The objection is that questions about
4 what happened at the time of the FTX deal had nothing to do
5 with what we're doing here today and so they are irrelevant
6 to our proceedings.

7 MR. SHEHADEH: I understand.

8 THE COURT: So I have sustained the objection to
9 your question.

10 MR. SHEHADEH: Okay. So what are we talking about
11 today, this hearing? What does this hearing pertaining to?

12 THE COURT: The hearing today is whether we
13 confirm the plan that is currently proposed, which is to
14 sell to Binance and in the event that transaction doesn't go
15 through, to toggle to the toggle plan under which Voyager
16 will to the extent it can distribute assets. Although the
17 testimony so far is that it -- there are certain kinds of
18 coins that I guess could be distributed through Binance that
19 Voyager would not be able to transfer.

20 The question is whether we are going to confirm
21 that plan. That's the issue we have today.

22 MR. SHEHADEH: Okay, I understand that, Your
23 Honor.

24 MR. SHEHADEH: Binance has liquidity some and they
25 become (indiscernible) Your Honor.

1 THE COURT: I'm sorry, I couldn't understand you.

2 MR. SHEHADEH: In case that Binance does become --
3 has liquidity issues and then goes bankrupt or files for
4 Chapter 11 or whatever, and then what happens?

5 THE COURT: Then you'd be -- then if you elect to
6 become a Binance customer and Binance goes into bankruptcy,
7 then you would be in another bankruptcy proceeding. But --

8 MR. SHEHADEH: So is that in the best interest of
9 the creditors, you think, Your Honor?

10 THE COURT: Well, I'm not -- you know, I'm not the
11 one to answer your questions. I'm the one to hear argument
12 and to make a decision, but so far, most of the people who
13 have actually taken the time to vote, have voted in favor of
14 this. I understand, you know --

15 MR. SHEHADEH: Yes, but --

16 THE COURT: I understand your questions but, you
17 know, I don't know if Binance is in -- you and a few other
18 people and to some extent the regulators have sort of said,
19 well, gosh, we have questions. But I'm looking for some
20 evidence. I don't want to do anything that's going to hurt
21 customers. I want to do what's best for customers. I think
22 if the Debtors had reason to believe Binance was going to go
23 into bankruptcy, they wouldn't want to do business with
24 Binance. Nobody wants to do that.

25 MR. SHEHADEH: (indiscernible) FTX.

1 THE COURT: The question is, what evidence do we
2 have on any of these points? The proposal --

3 MR. SHEHADEH: I mean --

4 THE COURT: It's not up to me.

5 MR. SHEHADEH: -- there's plenty of evidence, Your
6 Honor.

7 THE COURT: It's not up to me to formulate a plan.
8 I have a proposed plan in front of me that proposes the sale
9 to Binance and most of the people who will be affected by
10 that have voted in favor of it. So you don't like it, but
11 the question is, is there evidence --

12 MR. SHEHADEH: (indiscernible) Your Honor, you
13 know what I mean?

14 THE COURT: What's that?

15 MR. SHEHADEH: Robbed of their hard earned money.

16 THE COURT: Okay, do you have questions about --
17 for this witness on these subjects?

18 MR. SHEHADEH: I'll pass the witness, Your Honor.

19 THE COURT: Okay.

20 MR. SHEHADEH: There's other people
21 (indiscernible).

22 THE COURT: Thank you. Is there anybody else on
23 the phone who wishes to cross examine the witness?

24 MS. DIRESTA: Hi, Your Honor, I would. Can you
25 hear me?

1 THE COURT: Who is it?

2 MS. DIRESTA: My name is Gina DiResta. Can you
3 hear me?

4 THE COURT: I can, but who do you represent?

5 MS. DIRESTA: I am a pro se creditor. I represent
6 myself.

7 THE COURT: Okay.

8 MS. DIRESTA: So, before I ask the witness the
9 question, just so you know because I do a good amount of the
10 creditors that's on this call, I received some text messages
11 saying that we can't really hear you well. So if you maybe
12 -- I don't know whether the mic is positioned, so we do have
13 a hard time hearing you, just so you know.

14 THE COURT: Okay.

15 MS. DIRESTA: And then as for my question for the
16 witness.

17 CROSS EXAMINATION OF MARK RENZI

18 BY MS. DIRESTA:

19 Q For the people -- for the creditors who do not want to
20 move over to Binance in order to get their assets and they
21 would rather just wait out their three months and get
22 liquidated, would those creditors' KYC information still be
23 transferred over to Binance?

24 A I don't know the answer to that specific question for
25 KYC information. I believe that if you're going to open an

1 account at Binance, then they will make sure that you comply
2 with KYC as AML.

3 Q Yes, but my question isn't if I'm going to open an
4 account with Binance because that makes sense. You would
5 need the KYC information. My question was, if I do not want
6 to open an account with Binance and I want to wait the
7 three-month period and get cash out, which is an option,
8 will my KYC information still be transferred over to
9 Binance.

10 MR. SLADE: Your Honor, I object. He already said
11 he didn't know, but the -- I'm not -- didn't get this
12 creditor's name, but I don't think she filed an objection.

13 THE COURT: That's okay. I'm going to hear her. I
14 think as I understand --

15 MS. DIRESTA: No, I did not.

16 THE COURT: -- the submissions -- if I understand
17 the submissions that were made, the information would be
18 transferred to Binance; isn't that right?

19 MS. OKIKE: Yes, that's correct, Your Honor.

20 THE COURT: Okay. Even if --

21 BY MS. DIRESTA:

22 Q Is that information --

23 THE COURT: Even if this customer doesn't want
24 anything to do with Binance, Binance would get her
25 information?

1 MS. OKIKE: Correct, Your Honor.

2 THE COURT: Okay.

3 BY MS. DIRESTA:

4 Q And is that information provided in the disclosure
5 statement?

6 MS. OKIKE: Your Honor, we can check it. It's in
7 the APA but we'll double check. We did send out our
8 customer migration protocol which sort of laid this all out.

9 THE COURT: I believe it is, if that's your
10 question. You may not have seen it or not, but I believe it
11 is.

12 BY MS. DIRESTA:

13 Q Okay, and then if we're getting cashed out, the
14 creditors want to get cashed out, what would be the process
15 for that? And to be more specific, could it be a situation
16 where we would just get a check directly from Voyager or is
17 it a situation where all of my assets would still then
18 technically go to Binance, my crypto assets would go to
19 Binance, then they convert that to cash and then send that
20 back over to Voyager and then I get a check from Voyager or
21 I get a check from Binance? Like, how would that exactly
22 work?

23 THE COURT: To your knowledge the answer?

24 THE WITNESS: I think I know most of it, but there
25 was a lot of if this then that.

1 BY MS. DIRESTA:

2 A So I believe that if you elect to go over to Binance,
3 we already discussed how that would work. I think your
4 question is if you don't. I believe that the funds stay at
5 Voyager and you get cashed out at Voyager, if that's what
6 you elect to do. And then the way it's transmitted, I
7 believe you can do an ACH or a check, but I would need to
8 confirm that.

9 Q Okay. So it would be simply everything would stay at
10 Voyager and then a check would get cut to me directly from
11 Voyager. There would be no transfer of assets to Binance;
12 however, there will be a transfer of my KYC information
13 regardless to Binance. Is that correct?

14 A I think I was just informed by counsel that yes, the
15 KYC information will be at -- they'll be provided to
16 Binance, but under the scenario that you're highlighting, I
17 think, you know, Binance would not be the distribution agent
18 in that case that (indiscernible).

19 Q Okay. So my next question is the UCC held a Twitter
20 Spaces Town Hall on November 4th. And during that town
21 hall, the subject matter was the FTX deal because FTX had
22 not gone bankrupt yet. And during that town hall, someone
23 had asked a question about the percentage of distribution
24 that people were going to get and I can't remember who on
25 the panel answered the question. I think it was someone

1 from FTX, but they basically said that for every \$20 million
2 dollars that FTX was giving Voyager as part of the sale, for
3 every \$20 million, it only equated to about 1 percent of the
4 creditors' recovery. So with that information, since
5 Binance is only offering \$20 million, which is way less than
6 what FTX was offering, then doesn't the same logic hold true
7 that we're only getting about 1 percent additional recovery
8 with the Binance deal?

9 A Roughly. Yes. You're correct. And it's -- but it is,
10 \$20 million is a significant amount of money in general, but
11 there is a large claim pool so that just gets to the math
12 that you're highlighting. But I --

13 Q Okay --

14 A -- can't speak for FTX, but I can speak to the math.

15 Q Okay. So then earlier in the hearing, someone asked
16 you the question of the \$20 million that Binance is
17 offering. Is that all going to be going to the creditors or
18 would some of that be spent on some administrative cost, and
19 you didn't really answer the question. You just said that
20 the cash is, you know, fungible, which means it can really
21 go anywhere, right? Like there's no guarantee that all of
22 that cash is going to go to the creditors. So even if all
23 of the cash did go to the creditors, it's only 1 percent of
24 our recovery and if, say, only \$10 million of it goes to the
25 creditors because the other \$10 million is spent elsewhere,

1 then that drops down to like 0.5 percent or maybe none of it
2 goes to us and it drops down to 0 percent.

3 So I set this up to ask this question. How is it then
4 that the Binance deal is actually a better option than the
5 toggle option, when the lawyers are constantly saying that
6 you guys are trying to get the most amount of recovery in
7 the shortest period of time, when the recovery seems to be
8 the same with the Binance deal and the toggle option and
9 then the shortest period of time is the toggle option? So
10 how is the Binance deal better than toggle option, given
11 everything I just laid out?

12 MR. SLADE: Your Honor, I object. That was a
13 speech, not a question and he answered it when it was asked
14 the first time.

15 THE COURT: Well, I'll sustain the objection, in
16 part, because the -- there's a false premise in the
17 question, which is that somehow if \$20 million more is paid
18 by Binance, that it's not really \$20 million more. Whatever
19 the professional fees are, whatever other expenses there are
20 of the estate, they have to be paid and they have to be paid
21 if there's a toggle deal or if there's a Binance deal. It
22 actually makes no sense to ask where the \$20 million will
23 go, because all of the expenses will be the same but in the
24 Binance transaction, there will be \$20 million more.

25 Now I understand that you don't think that that's

1 much in terms of how -- as a percentage matter it affects
2 recoveries. That I understand. But the premise of your
3 question that somehow it will be used for some other
4 expenses and therefore not available, well, money is
5 fungible. Those expenses have to be paid from somewhere.
6 Necessarily, if there's \$20 million more, then there's \$20
7 million more for creditors. There's no other way to do the
8 math.

9 Now, if you want to ask him, why are we doing this
10 just for a 1 percent increase in creditor recoveries, that's
11 fine. Go ahead and ask him that.

12 MS. DIRESTA: Okay. Thank you, Your Honor.

13 BY MS. DIRESTA:

14 Q So why are we going through all of this struggle and
15 spending all of this time and money for a 1 percent recovery
16 to creditors when the toggle option is obviously faster and
17 almost equivalent?

18 A So 1 percent is \$20 million, as you already just
19 generally agreed on. I think that's number one. Number
20 two, Binance supports all of these coins, so there are
21 roughly 35 coins that are unsupported and our concern is
22 that in an unsupported format that you're going to get, you
23 will get to the best of my knowledge and market experts, you
24 will get less money. So to the extent that you can
25 effectuate this transaction, \$20 million in my opinion is --

1 and I understand that percent is not a significant number, 1
2 percent, but it is higher. It is better. And \$20 million
3 in general is a lot of money. And then furthermore, the
4 support of the coins is very important. So those are two
5 reasons, at least two reasons.

6 Q Okay, you're saying the support of the coins and I'm
7 kind of confused because my understanding is with the toggle
8 option, is just the Voyager app opens up and then people can
9 attach their wallet and withdraw their crypto and then now
10 it's theirs. They have it. It's been distributed to them
11 or if they choose to cash out, then they can, you know, get
12 the cash.

13 So how is that not a better option than going through
14 all this trouble of, you know, moving over to Binance,
15 especially when someone else said, I can't remember if it
16 was someone at Kirkland just earlier in this hearing that
17 Binance is essentially just a distribution agent. Why can't
18 Voyager act as its own distribution agent with the toggle
19 option and just open up the app, let people plug in their
20 wallets so that they don't lose their coins or if they want
21 to cash out, give them that option? Why can't we do that?

22 THE COURT: You can answer.

23 BY MS. DIRESTA:

24 A Yeah, you're asking my opinion on which one is better.
25 The Binance transaction is better than the toggle plan. The

1 toggle plan is a contingency plan.

2 THE COURT: I think the question was, the coins
3 that will be made available through the Binance plan. Can't
4 they all, all of them, be made available through the toggle
5 plan? And if that's right, why don't we just do the toggle
6 plan? I think that -- you think you said they can't --

7 MS. DIRESTA: Thank you, Your Honor.

8 THE COURT: -- you need to explain what you mean
9 when you talk about unsupported coins --

10 THE WITNESS: My --

11 THE COURT: -- and what the difference would be in
12 the in-kind distributions that you could do under the toggle
13 plan versus the Binance plan.

14 THE WITNESS: Yes. Thank you, Your Honor. So my
15 understanding is that there are 35 coins that are
16 unsupported that do create problems for distribution through
17 the Voyager platform. So that's the first answer. And then
18 secondly, I think the question is, you know, why are we
19 doing this. I think the answer is that it is mathematically
20 better and I think we had that discussion earlier.

21 THE COURT: What do you mean when you say they're
22 unsupported?

23 THE WITNESS: My understanding is that on the
24 Voyager platform, you have issues in terms of distribution
25 and support of 35 coins. It's just what's been represented

1 to me in terms of distribution and I think the benefit of
2 the Binance plan is that all coins are supported. And not
3 all coins are -- it's not as if they're all on one universal
4 exchange. It's, there are multiple exchanges. So there's
5 some exchanges where some coins are more obscure and
6 unfortunately, it would not be equal footing to the extent
7 that one customer who is pari passu with another customer
8 but has different coins may be adversely affected.

9 THE COURT: So in other words, under the Binance
10 deal, people who want in-kind distributions can get them no
11 matter what their coins are. Under the toggle deal, there
12 are certain kinds of coins you would not be able to do an
13 in-kind transfer on?

14 THE WITNESS: That's right, Your Honor.

15 THE COURT: Okay.

16 BY MS. DIRESTA:

17 Q Okay, so as a follow-up question to the unsupported
18 coins on Voyager, I'm sure, given all of the developers that
19 not only Voyager has or that, you know, out there in the
20 industry, that there is a very simple way to make this
21 unsupported crypto become supported, because if Binance is
22 doing it, right, they have the capability to do it, then I'm
23 sure Voyager should be able to have the capability of doing
24 it. So why doesn't Voyager just support the unsupported
25 coins? What is the problem there? Why can't we do that?

1 A Your Honor, this -- I'm sorry, this doesn't just
2 magically happen. You'd have to have developers. You'd
3 have to spend more time. You'd have to figure out a
4 methodology that everybody would agree to, to do that, and
5 in my opinion, that delay is -- will further delay
6 distribution to unsecured creditors.

7 Q Is there a way for us creditors or for you guys to
8 provide exactly what those steps would be and how long it
9 would take to make something unsupported become supported?

10 A I'm sure I (indiscernible).

11 THE COURT: Are you capable of answering that
12 question or would somebody else has to answer?

13 THE WITNESS: I'm not capable of answering all the
14 technical abilities to change from supported to unsupported
15 coins, but I have a general understanding that it will take
16 some time, effort, and money.

17 BY MS. DIRESTA:

18 Q And the thing about those vague answers is that, like,
19 anybody can give a vague answer and I'm just supposed to be
20 satisfied with it and trust you on that, but I would really
21 like to see the evidence laid out, you know, kind of like
22 how crypto has white paper that lays out the plan of how
23 it's going to function, how it's going to work. So I'd like
24 to see what that plan is and what the timeframe is and how
25 much it's supposedly going to cost to see if what you guys

1 are saying is accurate.

2 MR. SLADE: Your Honor --

3 BY MS. DIRESTA:

4 Q So is there a way for us to get information like that?

5 MR. SLADE: Your Honor, I object. That's not a
6 question. And every creditor had the option to take
7 discovery and did not.

8 THE COURT: Well, let me ask you, are you planning
9 to offer any testimony from anybody else that can explain in
10 more detail what the problems are in terms of the
11 unsupported coins? It is after all, one of the bases on
12 which you kind of touted the Binance deal as being better.

13 MR. SLADE: So we have one other witness that
14 could probably speak to that in some degree, but it's a, I
15 mean, it's a highly complicated process and it's probably
16 different by coin. There's 35 separate coins, so I don't
17 think we have anybody here today that can explain for each
18 of the 35 coins what would have to happen for the Voyager
19 platform to support it.

20 THE COURT: All right. Well, we'll see what your
21 other witnesses can do, but it sounds like this witness has
22 exhausted his own technical ability to explain the issue.
23 Am I right about that?

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: Okay.

1 THE WITNESS: Thank you, Your Honor. I'm done.

2 THE COURT: Okay. Anybody else on the phone?

3 MS. DIVITA: Good afternoon --

4 MAN 1: Your Honor -- ladies first.

5 MS. DIVITA: Thank you. Good afternoon, Your
6 Honor. This is Michelle DiVita and like to ask some
7 questions related to some trustee comments made by the
8 witness.

9 THE COURT: Okay.

10 CROSS EXAMINATION OF MARK RENZI

11 BY MS. DIVITA:

12 Q First question, did your due diligence related to the
13 Binance transaction include any data privacy considerations?

14 A I do not personally conduct any data privacy due
15 diligence.

16 Q Are you aware that there is a provision for Binance to
17 purchase customer selfies from Voyager?

18 A Could you ask the question again, please? Thank you.

19 Q Yeah. So as part of the Binance transaction, there's a
20 specific provision that allows Binance to also purchase
21 customers' selfies so something, you know, take a picture of
22 your face. That is explicitly enumerated in the purchase
23 agreement. Were you aware that that was a component when
24 you conducted your due diligence?

25 A I knew that Binance was trying to acquire you know, the

1 possibility of having new customers that they would have a
2 good experience on that platform and that that hopefully the
3 customers would elect to go over the platform and that there
4 were conditions in doing that. So, yes, I'm generally aware
5 of it.

6 Q Okay, but you did not identify any risk as part of the
7 transfer of customer biometric data, correct?

8 A My understanding is that it's laid out in, you know, in
9 the documents that have been presented here and I can't
10 speak to whether or not it was biometric or not. I just
11 can't.

12 Q So generally, the -- your analysis in terms of whether
13 or not the plan of reorganization is a better option for
14 creditors versus a liquidation plan, does that analysis or
15 that model does not contemplate any data privacy risk for
16 customers, correct?

17 A I think the analysis stands on its face and it's been
18 voted by 97 percent of customers that did vote, that they
19 accept the terms and conditions of the plan. And then
20 furthermore, I'm not a data security expert. So I, you
21 know, I can't speak to any questions about that.

22 Q Okay. You mentioned the 97 percent of customers that
23 did vote. Based on just your professional experience, 6
24 percent -- is a 6 percent voter turnout for a large customer
25 class typical?

1 A I can tell you that 97 percent is a very high
2 percentage of voting in favor of a plan in something as
3 complicated as this. And since this is the first large
4 cryptocurrency case in this country, you know, 6 percent
5 turnout is what it is on its face. I would have liked to
6 see a larger turnout but people all have the ability to turn
7 out.

8 Q Do you think or do you have any thoughts in terms of
9 why, believe someone previously mentioned 175K customers
10 have opted in to use the Binance platform; whereas, think
11 only like 60,000 voted in favor of the plan?

12 A I don't understand. I can't understand -- I don't
13 understand your question. Can you say it again? It's not
14 very clear what --

15 Q Yeah.

16 A -- asking.

17 THE COURT: She says it sounds like more people --

18 MS. DIVITA: So --

19 THE COURT: More people signed up for the Binance
20 platform than actually voted on the plan. Can you explain
21 why that might be?

22 THE WITNESS: More people -- Your Honor, could you
23 -- I just don't follow.

24 THE COURT: Based on the numbers Ms. Okike said at
25 the beginning of the hearing about the number of customers

1 who signed up already in the Binance plan, she says it
2 sounds like more people have done that than have actually
3 voted on the plan. Do you have any idea why that would be?

4 THE WITNESS: No.

5 BY MS. DIVITA:

6 Q Okay. So it sounds like maybe more than 6 percent of
7 customers are interested in, you know, doing this Binance
8 transaction, but when you say a majority of customers have
9 voted in support of plan that contemplates the discrepancy
10 between the number of customers who signed up versus those
11 that have voted.

12 A Well, I think --

13 Q Right?

14 A I think people have the ability to elect to vote or to
15 not to vote and in our country, I believe that's one of our
16 rights. So -- and you know, to the extent that somebody
17 didn't vote but elects to go to Binance that seems to make -
18 - that makes sense from a math perspective. So if you don't
19 vote and you want to go to Binance, that can be
20 mathematically true. So I see no logic flaw there.

21 Q Okay. So in terms of customers that aren't signing up
22 for this Binance, then and there's about 700,000 people in
23 (indiscernible), is that (indiscernible) roughly correct?

24 THE COURT: She's asking you if there are something like
25 700,000 customers who have not yet signed up for Binance.

1 BY MS. DIVITA:

2 A I believe there's a period of time in which customers
3 can continue to sign up, but the numbers obviously will
4 continue to change over the coming weeks.

5 Q So as of today, then, assuming those customers don't
6 sign up or sign up and some sort of gathered basis, at least
7 -- what's the minimum timeframe that those 700,000 customers
8 could receive a distribution if they did not opt in or sign
9 up for Binance?

10 A The minimum amount of time to come over, is the
11 question?

12 Q Sorry, for the cash distribution from Voyager.

13 THE COURT: I'm sorry, we're having trouble
14 hearing you clearly enough to understand the question.

15 MS. DIVITA: I know, I'm sorry. One second. Is
16 this better?

17 THE COURT: Try again.

18 MS. DIVITA: Is this better?

19 THE COURT: I won't know until you try the
20 question again.

21 THE WITNESS: And slower, please.

22 MS. DIVITA: Okay --

23 THE COURT: Maybe a little slower.

24 MS. DIVITA: I'm sorry.

25 BY MS. DIVITA:

1 Q So this is in the context of the timeline of creditor
2 customer recovery. If 700,000 people today have not signed
3 up for Binance and I understand that they have three months
4 to sign up, assuming no one signed up for those 700
5 customers, what is the soonest they can receive a cash
6 distribution from Voyager?

7 A The difference in time? I believe that the Binance,
8 the Binance plan is the most expedient way for distribution
9 to customers, if you elect to go to Binance. I think the
10 toggle will take longer, but hopefully not much longer.

11 THE COURT: I think she's saying --

12 BY MS. DIVITA:

13 Q So if you elect to go to Binance.

14 THE COURT: I think she's asking if you don't sign
15 up for Binance, when do you get your cash?

16 BY MS. DIVITA:

17 A I believe it's before June under a toggle plan, so --
18 but in a Binance transaction, hopefully it's effective, goes
19 effective in the middle of April.

20 Q So is there a way to opt out of the Binance plan? So
21 for example, I'm not signing up for Binance. If I -- so I
22 have three months to sign up. I know that I don't want to
23 sign up. Am I receiving a distribution three months from
24 April or is it -- is there an option for me to receive a
25 distribution sooner?

1 A I believe the timing is before June, so -- the exact
2 amount of time, I don't have in front of me.

3 Q I'm just trying to get to, you know, extending the
4 timeline for creditors when we have 700 creditors that
5 aren't opting in to an expedited timeline. And this is in
6 comparison between the plan of reorganization and the
7 liquidation.

8 A Your Honor --

9 THE COURT: I'm not sure that's a question. Let
10 me ask Ms. DiVita, what exactly is your question?

11 MS. DIVITA: I am just trying to clarify the
12 timing. So, one of the assumptions in why this plan of
13 reorganization is preferable for creditors is because it
14 expedites the timeline for recovery. But based on the
15 numbers as they are presented today, it sounds like this 175
16 (indiscernible) people, that's not a large portion and
17 doesn't necessarily support the contention that a majority
18 of creditors are looking at or interested in an expedited
19 timeline. And to just kind of further maybe drill down on
20 that point. But I don't know --

21 THE COURT: So, if I understand the question for
22 the witness, it is if customers who don't want to go to
23 Finance have to wait three months to get cash, is that
24 longer than it would take to get cash if we didn't have a
25 plan?

1 MS. DIVITA: That is well said. That is my
2 question.

3 THE COURT: In other words, if you converted to
4 Chapter 7, would people get cash sooner than what they would
5 get -- sooner than three months?

6 BY MS. DIVITA:

7 A I think the issue if you convert to a Chapter 7 is not
8 -- number one, I think it does take longer than the Binance
9 plan. Number two is that if you immediately -- and as Your
10 Honor read (indiscernible), if you have to distribute in
11 cash, that really will have issues in terms of the current
12 market and it will have a significantly lower recovery.

13 So, it's an issue of timing and overall recovery. So,
14 I am certain that if you have to monetize obscure
15 cryptocurrency assets quickly, that the performance on that
16 recovery is going to be significantly diminished and in some
17 cases, you know, over 50 percent reduction. And that's from
18 market makers.

19 So, the concern is that as you think through all
20 customers being treated equally, ones that have more obscure
21 cryptocurrency certainly bear the brunt of (indiscernible)
22 transactions, monetization.

23 Q Got it. That's actually very helpful and kind of
24 segues me into my next question. So, you're saying that the
25 rebalancing approach is the same under the Binance

1 transaction and the Chapter 7 liquidation with the trustee?

2 A No.

3 Q Okay, so it's different.

4 A I'm not saying that. I'm saying that the rebalancing
5 is optimizing what's going on in the market right now,
6 trying to do it in the least disruptive way. That is what
7 we're doing right now. I think under a liquidation, Chapter
8 7 liquidation, the timeline to monetize those assets has to
9 be quicker to monetize that and you will have a
10 significantly lower recovery.

11 Q Because --

12 A Because you have to convert into cash.

13 Q Got it. So, you're talking about the marketability of
14 the assets.

15 A Right. I mean, bitcoin has --

16 Q Okay.

17 A Sorry. Go ahead.

18 Q Oh no, go ahead.

19 A As we testified earlier and as a fact, Bitcoin has a
20 much deeper market in market (indiscernible) second largest
21 market (indiscernible), my understanding, for
22 cryptocurrencies.

23 Q So, I guess I don't exactly follow how marketability
24 differs between Binance and liquidation. Is it because
25 Binance is just getting a transfer of these more volatile or

1 less widely held cryptocurrencies?

2 THE COURT: I think what the witness has said is
3 that under the rebalancing approach, the Debtors can spread
4 transactions over time to avoid the kinds of immediate
5 impacts on the market that you would have if you had to sell
6 everything all at once. Is that right?

7 THE WITNESS: Yes, Your Honor.

8 BY MS. DIVITA:

9 Q Okay, that is very helpful. So, then in terms of the I
10 guess sale or rebalancing act, couldn't -- I guess since the
11 assets aren't one to one, like this is an exercise that
12 could have been started well before the Binance transaction,
13 correct? And the marketability risk isn't specific to
14 Binance, kind of been known from the beginning, right?

15 A Well, I can't answer all of your questions the same
16 way. So, the first question is could we do it during the
17 pendency of the case. We were not authorized to do it. It
18 took some time to get authorized. There are certain
19 protocols to do it. There are safety procedures that needed
20 to be done. We have to make sure that we are in compliance
21 with the APA. So, rebalancing is a very regimented process
22 to be the least disruptive that we can be to the marketplace
23 to monetize assets in a way where you can receive those
24 coins in kind and then be the least disruptive to the
25 marketplace. So, that process is ongoing. And you're

1 right, it is not created to be one to one. There are some
2 coins that we have too much of them and we will sell them,
3 and then we will buy other coins to rebalance the entire
4 portfolio.

5 Q Got it. So, the rebalancing is not -- it's required
6 for both -- I guess both methods. But one has to be
7 effectuated quicker?

8 A I'm not sure of the exact question. But I think
9 rebalancing is important because for, among other things
10 that I've heard on the town halls is that receiving, pulling
11 in kind is one of the preferences of the majority of
12 customers instead of cash because it might have adverse tax
13 consequences. And I don't know what those numbers would be,
14 but that's been expressed by multiple customers. And we
15 designed the plan in concert with the unsecured creditors'
16 committee advisors to make sure that we were thinking about
17 issues such as that to make sure we can do distribution in
18 kind to the best of our ability. And that's what the
19 Binance plan calls for. And it supports all the coins.

20 Q So, that --

21 A So, it's not just one factor for this plan.

22 Q Yeah.

23 A The plan is to try to do the best. One is to do the
24 best in terms of maximizing value. It's at least \$20
25 million better just on the face of it. The execution is

1 even better in terms of the recovery because of the way it's
2 being done, which is being done in a very regimented process
3 and to be the least disruptive for the market.

4 Q Got it. So, the tax benefits under a distribution in
5 kind offsets any really purchaser or buyer risk I guess kind
6 of in -- so there are securities risks, there are regulatory
7 risks, you know, as we've seen from the FTX transaction.
8 There's liquidity risk. And so, you're saying that the
9 preference of customers to get their cryptocurrency in kind,
10 which is predominantly driven by a tax benefit -- which I
11 don't know what -- we'll say 35 percent -- that offsets any
12 quantified risks, transaction risks?

13 A I wouldn't characterize my testimony as I understand
14 everybody's tax basis. All I can say is that there is a
15 preference for crypto in kind and that does have the
16 advantageous aspect for some that have a tax basis that
17 would prefer to receive it in kind. There are, as you
18 pointed out, over 700,000 customers. I can't speak for all
19 of them, but we have taken into consideration the issues
20 that have been brought before us, and the preference is in
21 kind. That's one.

22 And then two, because of market conditions, if we had
23 to liquidate all crypto in due cash, we think that the
24 recovery levels would be significantly lower, at least 20
25 percent lower, because of the items that I've already

1 testified to.

2 Q Okay. This is my last question then.

3 A If you can understand, like, you're not flooding the
4 market with coins if you rebalance it.

5 Q Right.

6 A You're selling all into cash, you're flooding the
7 market with more coins.

8 Q Got it. So, you have to flood the market under Chapter
9 7.

10 So, then I guess this is my last question. In terms of
11 -- you mentioned that when you did your quantification, your
12 accounting for all these various marketability, rebalancing,
13 et cetera, but you also mentioned that this analysis didn't
14 include any quantification of data privacy risks. Did it
15 include any other adjustments for risks such as securities,
16 solvency, anything like that in your calculation?

17 A I think I already testified to that in terms of
18 regulatory bodies and that risk. That's not been quantified
19 mathematically, but it's described that obviously there are
20 -- you know, the regiment for regulation for cryptocurrency
21 continues to be worked on right now by governmental
22 agencies. So, it's hard for me to opine on that because I
23 don't know the outcome and I don't think many do know the
24 outcome at this point.

25 Q So, risks inherent to a cryptocurrency transaction were

1 not quantified even though they don't exist in a liquidation
2 context? But only -- I guess they do, but only in a bad
3 way. And that's because you're flooding the market.

4 A (indiscernible). My testimony stands on its face. I
5 can't -- the way you just described things, I was confused
6 by it, honestly.

7 Q Okay, that's fine. I'm done. Yeah. Thank you.

8 THE COURT: All right. Is there anybody else --

9 MS. WALL: Hi, this is Jennifer Wall.

10 THE COURT: Who is it?

11 MS. WALL: This is Jennifer Wall. I am a creditor
12 and wish to speak.

13 THE COURT: Okay.

14 MS. WALL: May I speak, Judge Wiles?

15 THE COURT: Yes. You can ask questions.

16 MS. WALL: Okay. Thank you very much.

17 CROSS-EXAMINATION OF MARK RENZI

18 BY MS. WALL:

19 Q I have heard about the in-kind and that that is the
20 majority for the base of the Voyager creditors. However, I
21 am in the state of Texas and I want my claims to be in kind,
22 but Binance does not support Texas and I have not heard from
23 Texas if it's allowed. And what I have gleaned is that
24 (indiscernible) probably won't be allowed.

25 So, from a toggle perspective, wouldn't it be better

1 for those individuals that are in the state of Texas and the
2 other three non-supported states to be able to receive their
3 coins in kind through the toggle perspective and not have
4 that tax issue being cashed out?

5 A Number one, I think that there is a period of time for
6 Binance to get the proper authorization to distribute in
7 kind. I believe that's up to six months. So, -- and
8 hopefully there will be a quick resolution to that. But I
9 can't speak to the regulatory authorities in Texas in
10 regards to allowing Binance to do that for you in Texas.

11 A Okay. (indiscernible).

12 THE COURT: Would Voyager -- would Voyager itself
13 be under the same restrictions as Binance in Texas in terms
14 of the ability to distribute to customers?

15 THE WITNESS: (indiscernible).

16 THE COURT: Okay.

17 MS. WALL: Okay. I appreciate that statement,
18 Your Honor. Thank you for that. Because that is another
19 question I've had, is why can't, for those states that are
20 not supported -- and I understand that there were issues
21 late in the game, if you will, with Voyager that none of us
22 -- none of the residents in Texas knew about. We thought
23 all the license was there. And now we're being penalized.
24 It would be appreciative if the State of Texas and Voyager
25 could come to an agreement to allow those customers to get

1 their coins off of Voyager.

2 Another question that I have -- and I didn't know
3 if you've been speaking or testifying -- you made somewhat
4 of I think an absolute statement as saying that by going
5 with Binance, it's the most efficient and everybody receives
6 their coins in kind (indiscernible) or their cash, but you
7 just said that it's going to be six months for Texas
8 residents and the other three unsupported states to
9 potentially get their money back or their coins. And the
10 odds of giving all of the regulations (indiscernible) not
11 only from a national perspective but also from a state
12 perspective, I kind of see that highly unlikely. So, I
13 guess I'm just saying that I don't think that you're really
14 speaking in the four states that are not going to be
15 supported by Binance. I don't believe I'll really be
16 equally represented here. Okay. Sorry about that.

17 THE COURT: Okay. That's not really a question.
18 That's more an argument. And we --

19 MS. WALL: Okay.

20 THE COURT: We'll have argument at a different
21 point in the proceeding. Right now --

22 MS. WALL: Oh, sorry about that.

23 THE COURT: Okay.

24 BY MS. WALL:

25 Q Okay. My other question will my KYC information be

1 sent to Binance even though I'm in Texas?

2 A I'm not sure, Your Honor.

3 THE COURT: The witness doesn't know the answer.

4 MS. WALL: Okay. So, can that be (indiscernible)?

5 THE COURT: So, what?

6 MS. WALL: Could that be -- can that be verified,
7 if my KYC information will be sent to Binance? Because I
8 would prefer if we're not allowed to use Binance, that that
9 type of information not be sent to Binance.

10 MR. SLADE: We'll answer her question, Your Honor.
11 We'll get to the answer.

12 THE COURT: What is the answer?

13 MS. OKIKE: Your Honor, all customer information
14 is transferred to Binance under the purchase agreement.
15 Under the customer agreement, we do have the right
16 (indiscernible) customer information. And that's what we're
17 relying on with respect to that transfer.

18 UNIDENTIFIED SPEAKER: Isn't that Delaware,
19 California data privacy code with consumers --

20 THE COURT: Whoever is -- you can make your
21 arguments later, but don't interrupt witness testimony with
22 argument. Okay?

23 BY MS. WALL:

24 Q Okay. So, my last question. So, what I'm hearing is
25 that that will be verified, or that that is what's going to

1 happen. My personal information will be sent to a company
2 that I will not be able to transact with. Is that correct?

3 MR. SLADE: Just to clarify, the APA provides that
4 that information will be provided to the extent permissible
5 under applicable law. That's Docket Number 835 if you look
6 at Page 16. That's that part of the APA.

7 MS. WALL: Okay. And my last question -- and
8 thank you very much for the time to speak today.

9 BY MS. WALL:

10 Q My last question is from the tax perspective, for all
11 of us that have invested X amount of money and we're
12 certainly not getting that out, are we going to be able to
13 use those amounts for a tax loss over the coming years?

14 A I'm not an expert in tax basis, and it's hard for me to
15 answer that for all of the customers.

16 Q Is there a way that that question can be taken back and
17 looked at? Because I am hearing different things of yes, we
18 will be, no, we won't. And if there's anything -- and
19 realizing that through Judge Wiles' statement, this is the
20 first cryptocurrency case, so it would be nice to know that
21 we're -- we're victims of what has occurred, and we would
22 not be able to use this as a tax loss would be the second
23 impact on us.

24 THE COURT: There are disclosures in the disclosure
25 statement about tax issues. But in the end, the taxing

1 authorities will take their own positions on these things,
2 and the Debtors aren't really in a position to kind of make
3 any assurances or guarantees as to how any individual
4 customer's taxes will work, I'm afraid.

5 MS. WALL: Well, those are all my questions.
6 Thank you very much.

7 THE COURT: We're nearing our lunch break. We
8 probably passed on. I would have preferred a lunch break.
9 Is there anybody else on the phone that has questions that
10 have not already been asked of this witness?

11 MR. HENDERSHOTT: I do, Your Honor.

12 THE COURT: Who was that?

13 MR. HENDERSHOTT: Tracy Hendershott, pro se
14 creditor.

15 THE COURT: Okay. Go ahead, Mr. Hendershott.

16 MR. HENDERSHOTT: Thank you.

17 CROSS-EXAMINATION OF MARK RENZI

18 BY MR. HENDERSHOTT:

19 Q Mr. Renzi, I thank you for this time. I know this is
20 quite painful for all of us (indiscernible). So, I do want
21 to extend my gratitude.

22 But when we first started, I had missed what your role
23 is and who you work for.

24 A I lead BRG in financial advising for the company.

25 Q All right. Thank you, sir. So, your testimony is

1 (indiscernible) that the Binance is the best deal here for
2 the creditors. And some of these questions of the risks of
3 pushing all of the creditors over to Binance have not been
4 answered to my satisfaction. Has anyone evaluated whether
5 Binance comingles all user funds, which was significant
6 because of why we're all suffering currently under the
7 Voyager model of the same action.

8 A I believe they have the ability to (indiscernible) the
9 assets and then also rehypothecate assets. Yes.

10 Q So, all user funds, are they individualized to where
11 the users have ownership of it, or are they comingled in the
12 same manner that Voyager did?

13 MR. SLADE: I'll object for lack of foundation,
14 Your Honor.

15 THE COURT: Overruled. Do you know the answer to
16 the question?

17 MR. HENDERSHOTT: Well, they should --

18 THE COURT: The objection is overruled. Do you
19 know the answer to the question?

20 BY MR. HENDERSHOTT:

21 A I believe that the funds are going to be in effect a
22 custody -- you know when they're transferred over into
23 custody. But to the ability -- to the extent that there is
24 a wallet that's a broader wallet, I suspect it could be
25 comingled in a broader wallet, but still in the custody

1 perspective. I don't know -- I don't think it's going to be
2 in individual wallets (indiscernible).

3 CLERK: Judge, I believe the parties are falling
4 off the line. I believe Mr. Hendershott will probably call
5 back if you want to conclude with the witnesses before you
6 take the break.

7 THE COURT: We've reached out four-hour time limit
8 on Court Solutions. Well, that's a good time to take a
9 lunch break then. And we'll resume at 2:40. Okay?

10 UNIDENTIFIED SPEAKER: Why won't you guys let the
11 --

12 (Recess)

13 THE COURT: All right, please be seated. Mr.
14 Renzi, please retake the stand. You are still under oath.
15 Do you understand that?

16 THE WITNESS: yes.

17 THE COURT: Okay. I believe before the automated
18 telephone system cut you off, Mr. Hendershott, I believe you
19 were in the middle of asking your questions.

20 MR. HENDERSHOTT: Yes, sir. Thank you. And I was
21 glad to hear it was automated. (indiscernible) that got
22 booted out, but (indiscernible) clarified that for me, so I
23 was happy to hear that. Hope everyone had a good lunch.

24 BY MR. HENDERSHOTT:

25 Q So, picking up, Mr. Renzi. When we left off, we were

1 talking about your beliefs and testimony about Binance as
2 (indiscernible) for all of us creditors. And by the way,
3 are you perchance a creditor yourself, Mr. Renzi?

4 A No.

5 Q Yeah. I mean, that's frustrating when we keep getting
6 told over and over again by others (indiscernible). But I'm
7 glad that (indiscernible) pick your brain and utilize your
8 expertise here. But let's move along.

9 So, we ended with the comingling of user funds that put
10 us in this precarious situation right now with Voyager just
11 exactly over at Binance. I'm asking (indiscernible)
12 questions that differentiate between Binance and Voyager in
13 (indiscernible) environment. And with Binance, my
14 understanding is the sole shareholder of Binance U.S. is
15 Binance Global. Is that your understanding as well?

16 A It's my understanding.

17 Q Yeah. So, if you were to take any legal action against
18 the parent company, the holding company, my understanding is
19 Binance refuses to give any global domicile to be able to
20 initiate any legal action against. Is that your
21 understanding doing your due diligence as well?

22 A I'm not an expert on their legal structure.

23 Q So if you wanted to write a letter then just
24 congratulating (indiscernible) on this acquisition. Is
25 there a legal headquarters or domicile that you would have

1 identified during your due diligence that you would --
2 that's the parent company?

3 A I know that we've met with individuals from Binance, at
4 least my team, in New York City. Or Binance --

5 Q That would be Binance U.S. I'm assuming. Yeah. I'm
6 talking about the parent company, the single shareholder,
7 the parent company.

8 A I have not met with the parent company of Binance U.S.,
9 no.

10 Q So, I didn't ask if you met with them. I asked where
11 would you send any type of legal or just pleasantry
12 communication to the parent company for their global
13 domicile address.

14 A I don't know. I would ask. Happy to look it up.

15 Q That's concerning. One, that the creditors have
16 expended significant funds on their due diligence, and two,
17 that you are sitting here testifying to Judge Wiles and the
18 rest of us that this is the best solution for us.

19 MR. SLADE: Your Honor, I would object. Can we
20 just have questions and not speeches?

21 THE COURT: Objection sustained. Just ask
22 questions, Mr. Hendershott.

23 BY MR. HENDERSHOTT:

24 Q Okay, moving on. So, that puts us in a worse scenario
25 than Voyager, which actually does have a domicile address

1 where we can take legal (indiscernible).

2 How about comingling the funds between the affiliates,
3 between Binance U.S. and the global affiliate, which I
4 believe has even been confirmed by (indiscernible) publicly
5 and stated that was in the past, but they have better
6 controls in place now. Are you aware of that, sir?

7 A I believe they're separate legal entities. I can't
8 speak to all of the innerworkings of Binance between its
9 legal entities.

10 Q So, during your due diligence, you never came up with
11 any discussions about comingling between the U.S. entity and
12 the global entity that has no legal address?

13 A I don't agree with your statement that they have no
14 legal address. I just don't know the legal address. But
15 I'm sure you can find it.

16 Q I would have hoped that you would have done that
17 previous to this call in due diligence. But I'm asking
18 about the comingling of funds between the U.S. --

19 THE COURT: Mr. Hendershott. Mr. Hendershott.
20 Mr. Hendershott.

21 MR. HENDERSHOTT: yes.

22 THE COURT: You've got to stop making comments
23 after the answers. Just ask questions and get answers.
24 Okay? You can make your arguments later.

25 MR. HENDERSHOTT: Sure. Can we also have the

1 witness just answer the questions instead of putting his
2 comments in?

3 THE COURT: I think the witness has been fine.
4 So, just ask your questions and the witness will answer your
5 questions.

6 MR. HENDERSHOTT: Okay.

7 BY MR. HENDERSHOTT:

8 Q So, again, I haven't received an answer. The
9 comingling of funds between the U.S. entity and the global
10 entity.

11 A I don't know if they are comingling funds between the
12 U.S. entity and global entity.

13 Q That did not arise in your due diligence efforts?

14 A We have discussed many things with many different
15 people. I am not the sole person doing due diligence on
16 Binance.

17 Q But you are the leader and the chosen representative to
18 answer our questions. Moving on.

19 No declarations --

20 THE COURT: Mr. Hendershott. Mr. Hendershott.
21 Stop making comments after the witness testifies. Ask
22 questions and just get answers. Okay?

23 MR. HENDERSHOTT: Okay. Sorry, sir.

24 BY MR. HENDERSHOTT:

25 Q So, moving on. No declarations have been

1 (indiscernible) practices, which we already heard from the
2 State of Texas. We've already seen several, numerous
3 agencies state this as their concerns of Binance. And we
4 also heard from the attorney general's office in Texas that
5 Binance hasn't even attempted to file any type of
6 documentation highlighting their internal controls or
7 practices.

8 In your due diligence, sir, have you been able to
9 identify the internal controls and practices of Binance?

10 MR. SLADE: Your Honor, I object to numerous parts
11 of the preface of that question (indiscernible). No facts
12 in evidence to support those.

13 THE COURT: Well, let me also ask --

14 MR. HENDERSHOTT: We have the attorney general
15 (indiscernible). Can you maybe clarify with her?

16 THE COURT: No. I want you to not interrupt me
17 when I'm speaking.

18 MR. HENDERSHOTT: I'm sorry, sir.

19 THE COURT: Let me ask the Debtor's counsel. In
20 terms of due diligence, is this your primary or your only
21 witness on this point?

22 MR. SLADE: No, Your Honor. Mr. Tichenor will
23 also be testifying about due diligence.

24 THE COURT: Okay.

25 MR. SLADE: They serve different roles. Mr.

1 Tichenor is the investment banker. Mr. Renzi is the manager
2 advisory. They work together.

3 THE COURT: Okay. So, Mr. Hendershott, when you
4 ask a question, it's not proper to kind of first make an
5 argument and then ask your question. It's not proper to
6 kind of state what you believe to be facts and then ask a
7 different question. Just ask questions. Okay? Ask him
8 what he knows and what he did. And if you think it was
9 deficient --

10 MR. HENDERSHOTT: Sure. I'll --

11 THE COURT: If you think it was deficient later,
12 you can make arguments about what you think is deficient.
13 You can ask him what he found out and what he checked and
14 what he knows.

15 MR. HENDERSHOTT: Okay. Thank you, sir. Thank
16 you for the guidance.

17 BY MR. HENDERSHOTT:

18 Q Okay. Going back to why Binance is better than Voyager
19 question. So, the next one, no financial auditors for the
20 parent company, is that your understanding as well, sir?

21 A I have not reviewed financial audited statements.

22 Q Is that because Binance has no financial auditors?

23 A I can't answer the question, Your Honor. I think they
24 have auditors. I just don't know specifically. They have
25 accounting functions for sure.

1 MR. HENDERSHOTT: Can I ask follow-up questions
2 for that, Your Honor?

3 THE COURT: You can ask follow-up questions.

4 BY MR. HENDERSHOTT:

5 Q Mr. Renzi, I find your statement that you think they
6 have auditors as defective and concerning, that you are
7 sitting her unequivocally testifying that Binance is the
8 best solution for us, but you think that they might have
9 financial auditors, which is --

10 THE COURT: Okay. That's not a follow-up
11 question. That's a follow-up argument. Please try to keep
12 the difference in mind. Ask him what he knows. If you
13 don't like what he knows or if you don't think he's done
14 enough, you can argue about it later. But just ask him what
15 he knows and what he did.

16 MR. HENDERSHOTT: Okay. Thank you, sir.

17 BY MR. HENDERSHOTT:

18 Q So, Binance. How about USD dollar banking relationship
19 for onboarding and offboarding of fiat? Is Binance global,
20 parent company, sole shareholder of Binance U.S.
21 (indiscernible) that relationship currently?

22 THE COURT: Do you understand the question?

23 THE WITNESS: I -- I don't know the answer.

24 MR. HENDERSHOTT: Should I move on or is this
25 going to be the response for all the questions with Binance?

1 THE COURT: I don't know how to predict that.

2 MR. HENDERSHOTT: Okay, well how about just one
3 last one.

4 BY MR. HENDERSHOTT:

5 Q You are aware, Mr. Renzi, that Binance is actually
6 paying (indiscernible) for the various national -- possibly
7 with some states, I'm not clear on that one. Certainly, at
8 the national level for regulatory noncompliance settlements.

9 A If the question is am I aware that they're trying to be
10 in compliance with state regulations, I think that they are
11 trying. And to the extent that there's anything that's
12 deficient, I'm sure they're going to try to cure that. But
13 to be specific about it, I don't know specifically any state
14 fines that they're addressing right now. I'm sure that it's
15 an ongoing thing in all cryptocurrency to make sure that
16 they're addressing any new (indiscernible).

17 Q Okay. So, you're sure that they are collaborating with
18 state regulatory agencies. Were you in the courtroom or
19 available when the attorney generals of Texas stated that
20 they have taken no action of filing regulatory
21 documentation?

22 A Well, in discussions with the company and their
23 advisors, my understanding is that Binance is trying to
24 cooperate to the best of their ability. I was not in the
25 courtroom in regards to what they heard in the Texas

1 courtroom that you referenced. But I believe they --

2 Q (indiscernible).

3 A -- were operating as a company in the United States
4 appropriately.

5 Q I was talking about this courtroom, sir. Earlier when
6 the Texas attorney general's representative clarified
7 (indiscernible) they had not filed any documentation with
8 Texas. In the courtroom, did you hear that portion of the
9 trial?

10 A I didn't hear his question, Your Honor.

11 THE COURT: He's asking if you heard the question
12 asked by the Texas attorney, which question asserted that
13 Binance had not made any filings in Texas.

14 THE WITNESS: No.

15 BY MR. HENDERSHOTT:

16 Q Okay. So, after identifying probably six very
17 significant regulatory concerns of noncompliance worse than
18 with Voyager, all of those questions I asked you previously,
19 Voyager could comply with, yes. Six of them Binance could
20 not. Can you please reiterate again why you feel Binance is
21 a safe and the best methodology to be pushing all of those
22 creditors into?

23 MR. SLADE: Again, I object. That's a speech and
24 it assumes facts not in evidence.

25 THE COURT: Just answer the question. Why you

1 think Binance is the safe and better alternative?

2 BY MR. HENDERSHOTT:

3 A I believe that Binance provides the maximum recovery.

4 The Binance transaction provides the maximum recovery to all
5 unsecured creditors. To the extent that that recovery or we
6 have any doubts in Binance, we have the ability to toggle.

7 And then (indiscernible) is the second-best option that we
8 have. So, to the extent that there's a disagreement in
9 construct, I believe that the construct that's set up
10 maximizes recovery for unsecured creditors as demonstrated
11 in my declaration and provides optionality to the extent
12 that there are concerns.

13 Q Okay. So, still you believe Binance is the best
14 solution for creditors is your testimony, is that correct?

15 A I just testified, Your Honor.

16 Q Yeah. Okay. Moving on. Yes, sir?

17 A I was coughing. Excuse me.

18 THE COURT: Go ahead, Mr. Hendershott.

19 BY MR. HENDERSHOTT:

20 Q Moving on. Earlier, there's been fairly extensive
21 conversations about the backup bidding process
22 (indiscernible). You stated that Binance at the FTX round
23 was a backup bidder that they had no interest to be a backup
24 bidder. You did not clarify how many other bidders were
25 there. And we respect NDAs, we don't need to know their

1 names. But I think just a numerical number would be
2 beneficial. And the follow-up question is did each one of
3 the backup bidders refuse to be -- did each one of the other
4 bidders beyond FTX and Binance, did they all refuse to be
5 backup bidders?

6 MR. SLADE: Your Honor, I'm going to object to
7 relevance. It's not relevant to what's before the Court
8 today.

9 THE COURT: Well, I agree. But go ahead and
10 answer the question. Did all of the other bidders decline
11 to be backup bidders?

12 THE WITNESS: I knew that FTX was the best bid and
13 that we did not have a backup bidder and that we had an
14 extensive auction. I believe it was over a week. It may
15 have been up to two weeks for someone to come in as a backup
16 bidder. But we did not achieve that. So, FTX was the
17 highest bid at that point in time.

18 BY MR. HENDERSHOTT:

19 Q Yes. And (indiscernible). I was curious about all the
20 other bidders that participated in that auction. Did all of
21 them refuse to be a backup bidder?

22 A I think I answered the question.

23 THE COURT: I think you did answer the question.

24 MR. HENDERSHOTT: I'm sorry, Your Honor, I didn't
25 hear the answer. I heard that FTX was the number one

1 bidder. I didn't hear that all the bidders refused to be a
2 backup bidder. Because that's a critical element, Your
3 Honor. You approved the bidding plan. The backup bidder
4 was included from the beginning, that would have shaved six
5 months off this trial, probably hundreds of millions of
6 dollars if it was (indiscernible). And Your Honor --

7 THE COURT: Stop.

8 MR. HENDERSHOTT: -- a person that's been involved
9 in the (indiscernible) would have been --

10 THE COURT: Just stop. Whether you think that's
11 true or whether it is true makes no difference to what we're
12 doing here today. Right? They didn't have a backup bidder
13 --

14 MR. HENDERSHOTT: It was --

15 THE COURT: Let me finish. Whether that was right
16 or wrong doesn't change the situation we are standing in
17 today and doesn't change in one iota the question of whether
18 we should or shouldn't confirm the plan that is currently in
19 front of us.

20 Today is not about recriminations for plans,
21 different plans that maybe could have been pursued in the
22 past. I don't know what you think is accomplished by any of
23 that, but I promise you it's nothing. You might be upset,
24 but it doesn't have any bearing at all, none, on what we
25 should to today. They could have made the worst mistake --

1 MR. HENDERSHOTT: (indiscernible).

2 THE COURT: They could have made the worst mistake
3 in the history of bidding to have picked FTX and/or not to
4 have had a toggle plan at that time, but it doesn't matter.
5 I can't change the past. Nobody can. We are where we are.
6 And so, your fixated anchor on these points is of no help.
7 Okay? You've got to move on and you've got to address the
8 issues that we're dealing with today.

9 MR. HENDERSHOTT: From that perspective, Your
10 Honor, just to respond to you. I believe it is relevant. I
11 believe there is no accountability for their actions is your
12 proposal, that we ignore everything that happened in the
13 past. I mean, there was material damages to the creditor
14 class because they failed to follow the bid plan. It's
15 standard practice. And there is a monetary value that can
16 be associated with it. As well as there should be some
17 accountability for their failure to follow it.

18 THE COURT: There is no issue in front of me
19 today, none, about whether they did something in the past
20 that caused damage for which they should be held
21 accountable. Absolutely that is not an issue in front of me
22 today. It's just simply not.

23 Now, if you want to say that there's some
24 dishonesty as opposed to a mistake and that it somehow means
25 that even at this stage of the proceedings I should appoint

1 a trustee, that's fine. But I know you're not lawyers, but
2 you have to understand every court hearing is not an open
3 invitation for you to ask for every single thing that you
4 might want without a pending motion, without justification,
5 and without evidence. It is not how a court hearing works.
6 We have specific motions in front of me today. And the
7 primary one is for confirmation of a plan that has been
8 accepted by the voting classes. If there is an objection to
9 that confirmation that is based on the criteria I need to
10 consider in the bankruptcy code, I am more than willing to
11 hear it. But I promise you, recriminations over the FTX
12 negotiations last fall have zero to do -- zero -- with
13 whether or not this particular plan should be confirmed.

14 If you want to argue that they made a mistake
15 before, therefore I should assume that they're making a
16 mistake again, you can make that argument. But just beating
17 up the witness about why he didn't have a backup bidder is
18 pointless. Do you under?

19 MR. HENDERSHOTT: I hear you, Your Honor. But you
20 do have an objection or a motion in front of you from the
21 creditors explicitly stating that for cause removal for
22 fraud, dishonesty, and competence and gross management. I
23 believe establishing the sequence of incompetence, gross
24 mismanagement, potentially fraud and dishonesty right from
25 the very beginning for this date is part of the objection

1 that you have sitting in front of you that's on the agenda
2 for today.

3 THE COURT: He's testified -- he's testified that
4 they didn't have a backup bidder. You want to ask him that
5 same question ten times. You're accomplishing nothing.
6 They didn't have a backup bidder, and they didn't have a
7 toggle plan at the time of FTX. You can ask him that same
8 question a hundred times, and it's the same thing. You're
9 not showing me anything that's relevant to anything I need
10 to do today.

11 MR. HENDERSHOTT: Yes, Your Honor. I understand.
12 Moving on.

13 BY MR. HENDERSHOTT:

14 Q So, again, for the various reasons, that, Mr. Renzi,
15 you highlighted whether Binance is the best bid, you called
16 out that KYC would be required for a liquidation for the
17 release of tokens to the individual creditors and that would
18 only be possible by going through (indiscernible)
19 organization like Binance. So, my question for you, sir, is
20 Voyager has KYC has -- has already been mentioned on this
21 trial. People are concerned about it being shared with
22 Binance. And so, every single creditor -- so could you
23 expand on where is the challenge of Voyager with the
24 preexisting KYC?

25 MR. SLADE: Your Honor, I object. I don't

1 understand the question. I don't know how the witness
2 could.

3 THE COURT: I understand the question. He's
4 talked about the provisions in the witness's prior
5 declaration that talked about KYC issues and why the Debtor
6 isn't equipped to pursue them. And he's asking you why not.
7 So, go ahead.

8 BY MR. HENDERSHOTT:

9 A Effectively the transaction with Binance is -- they're
10 paying us for those transactions. It's over \$20 million.
11 So, in order to do that, they want to make sure that they
12 have the ability to do, you know, KYC information and make
13 sure there isn't any money laundering or making sure that
14 things are done appropriately.

15 So, in terms of Voyager, Voyager, if we have to go to
16 the toggle plan does have the ability to distribute some of
17 the (indiscernible). However, not all. And I think I
18 testified to that. And I do think that they have a
19 tremendous amount of information about their customers.

20 Q So, just so I am clear, Voyager has full KYC
21 documentation that would allow them to liquidate and return
22 assets directly back to customers?

23 A I believe they have --

24 Q Is that correct?

25 A I'm not a hundred percent certain, but I believe they

1 have -- I believe they have a significant amount of
2 information.

3 Q Okay. I must have misheard you earlier when you said
4 that was an obstacle then. So, that's great to know they
5 have the ability to do that.

6 Next question. You -- sorry?

7 A I think -- I want to make sure we're clear because I
8 don't want to recharacterize my testimony. I think what I'm
9 saying is that we have the ability to move to a toggle plan.
10 However, there are -- the Binance plan, there's a hundred
11 percent support on coins. The toggle plan, we obviously
12 have some unsupported coins.

13 Q So, I'm curious on that. When you say unsupported,
14 Voyager was never an exchange. So, Voyager bought coins
15 from true exchanges. What is the obstacle again? I heard a
16 statement earlier that all of this programming and
17 complexity involved with it, they already had the
18 programming to receive the code, to buy the coins from the
19 exchange, to allocate that to the client base. And forgive
20 my ignorance, I don't understand why it is challenging to
21 then take those digital keys and coins and put them back to
22 the exchange that they bought them from.

23 A They have to invest time and money to make sure that
24 those coins are supported. And that is not one of the
25 things that's contemplated right now.

1 Q Supported by the exchange that they bought them from?

2 A For them to make distributions in those coins.

3 Q I'm not saying distributions back to the customers.

4 I'm saying about (indiscernible) from. I recall that you
5 said that that was a significant obstacle for the

6 liquidation process. And I'm confused on why. The bottom,
7 it's one way, from the exchange to Voyager. Why isn't it
8 not possible for it to go back from Voyager to the exchange?

9 A So, the distribution would be made to customers, not to
10 an exchange, correct?

11 Q We're talking about a liquidation. You said that's why
12 (indiscernible) liquidate (indiscernible). I'm sorry, go
13 on.

14 A I don't know what the question is. I'm sorry.

15 Q We're talking about a liquidation. You said that that
16 was problematic because there is (indiscernible) for the
17 coins to be liquidated.

18 MR. SLADE: Yeah, I object, Your Honor. I think
19 it's --

20 THE COURT: The question is if Voyager was -- if
21 people were able to buy these coins in the first place
22 through Voyager, why can't they be put in their names by
23 Voyager?

24 THE WITNESS: The issue, Your Honor, is that
25 distribution of these coins by Voyager, they have 35 that

1 are unsupported. So, in order to address them, they would
2 have to liquidate them.

3 And so, because we understand that customers would
4 prefer to have coins in kind, this is an issue. Binance
5 wants all the coins.

6 THE COURT: And I guess the problem is we're
7 having some trouble understanding what being unsupported
8 means.

9 THE WITNESS: The issue is for the company; they
10 cannot make those distributions in kind for those 35
11 unsupported ones. That's the simple version of it.

12 THE COURT: Okay.

13 THE WITNESS: The technical repercussions are
14 beyond what I can testify here today.

15 THE COURT: Okay.

16 BY MR. HENDERSHOTT:

17 Q Thank you for that clarification. That was helpful.
18 But just so I understand, you can liquidate them as part of
19 a rebalancing to U.S. dollars. And so, is that occurring
20 actually right now with the \$445 million liquidation that's
21 ongoing? These coins are being liquidated to dollars?

22 A The company is rebalancing coins now. And to the
23 extent that they need to set aside funds (indiscernible) for
24 cash, they will be doing so.

25 Q And as a liquidator (indiscernible) unsecured --

1 unsupported claims?

2 A I am not -- I don't think so.

3 Q Okay. All right. So, talking about the liquidation,
4 you said that the problem of the toggle -- or actually of
5 Chapter 7 liquidation is the risk of collapsing the market.
6 You indicate that a trustee would try to dump the entire
7 treasury within a day or two, which I have never heard Judge
8 Wiles or anyone say that that would be the plan going
9 forward. So, I'm very curious why your strong belief is a
10 liquidation would collapse the global market of any coin,
11 even one with less market liquidity than bitcoin or
12 Ethereum. And I am curious (indiscernible) a coin that is
13 on Voyager that you would collapse the global market by
14 doing a thoughtful and strategic liquidation over a period
15 of say two months.

16 A I never testified that this would collapse the global
17 market of cryptocurrencies, Your Honor.

18 Q On a specific coin, sir. You said that it would
19 collapse it down in I believe 30 -- I've heard 26 percent, I
20 believe. I heard 35 percent. But that would be the
21 slippage damage caused by a liquidation or a trustee coming
22 in and liquidating because the global market for that
23 specific coin could not handle the influx of Voyager's
24 volume. So, I'm curious, called out by name, but this is
25 not effective for bitcoin or Ethereum. I am curious if you

1 can identify a coin where this would collapse a given market
2 in that specific coin.

3 MR. SLADE: Your Honor, I object again. We're
4 hearing speeches, not questions.

5 THE COURT: Can you identify a particular coin for
6 which the market would suffer the effects that you had
7 previously discussed?

8 BY MR. HENDERSHOTT:

9 A There are a number of coins that -- like Shiba Inu that
10 coin, VGX, if you had to just sell it all immediately into
11 cash, these coins don't have the deep market, and that's an
12 issue. Those are the examples.

13 Q Thank you, Sir. Shiba and -- can you tell me how much
14 --

15 A I would say to you I never testified that it would
16 collapse the market. What's important to understand is that
17 the market liquidity is a differentiator. And because
18 bitcoin and eth have a significant amount more market cap
19 and liquidity, it's easier to sell those coins and sell or
20 buy those coins. So, the more obscure coins are difficult
21 to monetize quickly.

22 Q That's what I'm questioning if you could give examples.
23 And you gave Sheba as an example of that. Do you know what
24 the global market cap is for Shiba Inu?

25 A I don't have that in front of me.

1 Q I have it open. You know whether I can introduce this
2 right now and it -- I have it open right now. It's 6.7
3 billion. So, is the volume that Voyager has, even if you
4 liquidated it in a matter of days versus doing it
5 responsibly, or the months, would the volume of Voyager
6 Shiba Inu collapse or significantly drive down the price
7 point of \$6.7 billion market cap?

8 THE WITNESS: So, how did I testify before, Your
9 Honor? A number of these coins may have significantly
10 larger market caps. By way of example, Bitcoin has a
11 significantly larger market cap. Same with eth. The issue
12 that we're bringing up is that this is not just my opinion,
13 this is the opinion of market makers that, you know, deal
14 with these coins day in and day out. They may have a high
15 market cap, but it's hard to trade them. And those are
16 issues that we've seen throughout in cryptocurrency. And
17 the issue that you have is that if you have to liquidate
18 coins quickly, even more obscure coins, that it will move
19 the market. It will not collapse the market, hopefully will
20 not collapse the market, but it will move the market
21 (indiscernible). That's not only -- that's diligence that's
22 been done by myself, it's been done by their investment
23 banker, Moelis, it's been done by the unsecured creditor
24 committee advisors.

25 And so, when we talk about the discount to

1 monetizing collateral that's harder to -- that has a smaller
2 market cap than the two biggest ones that we've discussed,
3 yes, that's absolutely true. Not only from the -- but more
4 than a dozen advisors and market participants have validated
5 this information.

6 THE COURT: In terms of the one you identified.
7 Not VGX, the other one. Shiba...

8 THE WITNESS: There are many -- there's 106 coins,
9 Your Honor.

10 THE COURT: What is the volume that Voyager holds,
11 and are you aware of any statistics as to what the ordinary
12 trading volume is as to that?

13 THE WITNESS: I have a chart. It's not in front
14 of me. So, I could answer that, Your Honor, if I can get
15 the chart.

16 THE COURT: Any objection to him consulting his
17 chart?

18 MR. HENDERSHOTT: None from me, sir.

19 THE COURT: Well, let's go ahead.

20 MR. SLADE: Your Honor, (indiscernible) print a
21 copy.

22 THE COURT: And if he has any idea what the
23 ordinary trading...

24 MR. SLADE: Apologize, Your Honor. We're trying
25 to --

1 THE COURT: I understand.

2 MR. SLADE: Your Honor, could I have a five-minute
3 recess to find the right files?

4 THE COURT: Okay. We'll take five minutes.

5 (Recess)

6 THE COURT: All right, please be seated.

7 Mr. Renzi, you are still under oath. Have you had
8 a chance to look up the answer of the question?

9 THE WITNESS: I have, Your Honor. Thank you for
10 the five minutes.

11 So, other examples besides VGX of issues in terms
12 of relative market cap and trading issues, BET would be an
13 example, (indiscernible) would be an example, BTT would be
14 an example. STMX would be an example. CKB would be an
15 example, DGB. Those are other examples, to answer Mr.
16 Hendershott's question directly (indiscernible).

17 THE COURT: And as to Shiba, have you been able to
18 figure out what does Voyager hold and how does that compare
19 to ordinary trading volumes?

20 THE WITNESS: I think Mr. Hendershott is right,
21 there is still an issue in terms of relative volume. But I
22 am looking at the amount of claims that's \$93 million that I
23 have in this schedule on a dollarized basis. And so, Shiba
24 is less of an issue than the other ones that I just
25 mentioned.

1 THE COURT: Okay.

2 THE WITNESS: But still an issue.

3 THE COURT: Okay.

4 BY MR. HENDERSHOTT:

5 Q So, what's the daily trading volume for Shiba against
6 the Voyager \$93 million Shiba -- assets under management for
7 Shiba specifically?

8 A I don't have daily. I have seven-day average, \$243
9 million is their seven-day average volume.

10 Q Right, average per day. So, a quarter of a billion
11 dollars traded with only \$93 million on voyager, that could
12 be distributed over the course of a month or two. So, did I
13 mishear earlier when you said that the reason why a trustee
14 could not handle this is because it would collapse or reduce
15 --

16 THE COURT: Are you saying that what Voyager has
17 is more than a third what the average daily trading volume
18 is?

19 MR. HENDERSHOTT: That's correct. \$93 million
20 total. I'm sorry, I'm not sure who that question was for.

21 THE WITNESS: To answer your question, Your Honor,
22 they have a claim of \$93 million. And the position is \$70
23 million approximately. And the average daily trading seven-
24 day average volume is \$243 million. And so, I am not saying
25 that this would collapse the market. I am saying that they

1 will move the market. Especially if it needs to be done
2 quickly.

3 BY MR. HENDERSHOTT:

4 Q So, that's -- and thank you for that. I don't see how
5 \$93 million spread out over a month or two can move the
6 market when it's doing a quarter of a billion every day.
7 But I keep hearing that if you have to do it quickly -- am I
8 missing something that a trustee being appointed would have
9 to liquidate everything in a day or two? Did they not have
10 the same courtesy to be able to distribute this over the
11 course of a month or two like we're doing with the
12 rebalancing right now?

13 MR. SLADE: Your Honor, I object. That's a
14 speech, and it was already asked and answered by this
15 witness.

16 THE COURT: Yeah. We've covered this, Mr.
17 Hendershott.

18 UNIDENTIFIED SPEAKER: That's not an objection.

19 MR. HENDERSHOTT: I don't remember the answer. He
20 just (indiscernible) that I would have to be done quickly.
21 And I am questioning why he keeps making that statement.
22 There's nothing that would have to instill a two-day
23 liquidation with the assignment of a trustee.

24 MR. SLADE: (indiscernible).

25 THE COURT: Yeah. What he said, you know, a

1 trustee would a statutory obligation to convert to cash. I
2 don't know of any trustee that would sit around and take
3 market risk and try to figure out how to time those kinds of
4 sales. And what the witness has basically said is that he
5 thinks that the kind of imperative that a trustee would face
6 to sell would be very different from the sort of being able
7 to do it as you think fit in the rebalancing exercise in
8 that there would therefore be a much stronger market effect
9 if were in Chapter 7 than in Chapter 11. That's what I
10 understand that he's testified to so far.

11 THE WITNESS: Your Honor, I just (indiscernible).
12 Thank you.

13 MR. HENDERSHOTT: Great. Thank you. And thank
14 you, Mr. Renzi. I will cede the podium. Thank you, sir.

15 THE COURT: Okay. Is there anybody else on the
16 phone that wishes to cross-examine the witness?

17 CLERK: Your Honor, there's no one else on the
18 phone (indiscernible).

19 MR. LOREN: I would like to (indiscernible), Your
20 Honor.

21 THE COURT: Who is speaking now on the phone?

22 MR. LOREN: This is John Loren, pro se creditor.
23 Can you hear me?

24 THE COURT: What was your name again?

25 MR. LOREN: John Loren.

1 THE COURT: Okay, Mr. Loren.

2 CROSS-EXAMINATION OF MARK RENZI

3 BY MR. LOREN:

4 Q To the witness (indiscernible) rebalancing the
5 portfolio, that a big selloff would (indiscernible) the
6 market lower. Did you do any research on the VGX token?

7 THE COURT: What is it you want to know about the
8 BTX did you say?

9 MR. LOREN: VGX token. I'm curious what analysis
10 was done on that in regards to the rebalancing of the
11 portfolio.

12 THE WITNESS: Could I just confirm that he said V
13 as in Victor, G as in good, X as in x-ray? Is that correct?

14 MR. LOREN: Correct. VGX Voyager token.

15 THE WITNESS: Yes, we have done research on the
16 VGX token. We have been careful to make sure that we have
17 been opportunistic in selling some of the token in terms of
18 the rebalance. The amount of holdings is relatively
19 significant relative to the market cap for VGX with the
20 company. And so, yes, the answer is yes.

21 MR. LOREN: What percentage of VGX is currently
22 locked on the Voyager app?

23 THE WITNESS: Your Honor, I have a procedural
24 question in terms of being discrete about rebalancing versus
25 answering this question. Because I'm afraid that it will

1 have an effect on the market. So, I'm --

2 MR. SLADE: Let me object to the relevance of
3 (indiscernible).

4 THE COURT: I had trouble hearing the question.
5 What was it exactly?

6 MR. LOREN: My question is what is the rough
7 percentage of VGX on the Voyager app.

8 MR. SLADE: Yeah. I object, Your Honor. It's not
9 relevant. I'm worried that he might be asking questions
10 that (indiscernible) rather than get information that's
11 relevant to this --

12 THE COURT: Okay. I will sustain the objection.

13 BY MR. LOREN:

14 Q So, this is exactly why I wanted to ask the question.
15 Let's say roughly 80 percent of VGX is locked on the app. I
16 would to know your price analysis of VGX when 80 percent of
17 this token gets locked all at once on Binance.

18 MR. SLADE: Yeah. I have the same objection.

19 THE COURT: Yeah. Objection sustained.

20 BY MR. LOREN:

21 Q (indiscernible) the price of VGX would plummet to zero.
22 How would you combat this?

23 A Your Honor, the whole idea of rebalancing is to do it
24 in a way that is opportunistic and make sure that the
25 trading is done in an appropriate manner and also consistent

1 with the APA. And so, what we're trying to do is spread out
2 trading at times that are opportunities so that we don't
3 flood the market, as this gentleman is highlighting. And we
4 are trying to do that in a way that is being transparent
5 with the Unsecured Creditors' Committee and believe that our
6 methodology is working thus far.

7 Q So, aside from the -- aside from rebalancing, I am
8 referring to once the VGX token, which I believe that's
9 roughly 80 percent of VGX currently locked on the app, then
10 80 percent of supply is released to (indiscernible) Binance,
11 what will happen to the price? One could easily determine
12 there would be a bloodbath and the price would plummet to
13 zero. How is that fair in regards to the recent 80 percent
14 of the market (indiscernible) at once?

15 A We're rebalancing. We're not releasing all of the
16 coins into the market. So, what's important is we're
17 distributing -- let me -- just let me finish for a second.
18 We are trying to rebalance to the right proportionality so
19 we don't have to sell it all down and then we can provide it
20 and return it in kind.

21 So, to the extent that we were under a scenario of a
22 liquidation, I actually a hundred percent agree with you
23 that it would be a very challenging situation in terms of
24 recovery if you had to sell it all immediately or in very
25 short order into cash. But we are not doing that because we

1 have a plan. The plan does highlight a rebalancing
2 transaction, and that rebalancing will eliminate the concern
3 that you exactly have in my opinion.

4 Q So, that may help during the rebalancing portion. But
5 once the tokens VGX has sent to Binance and users have
6 access to their VGX tokens, 80 percent of supply being
7 released at once is going to plummet the price. We were
8 given a claim that (indiscernible) but we won't be able to
9 actually get that (indiscernible) value from VGX
10 (indiscernible). Reason being is, like I said, it would be
11 a bloodbath. It would be a huge selloff even mention that
12 if you do have a big selloff, the price will tank. So, what
13 would be used to combat this selloff?

14 MR. SLADE: Your Honor, I object to the extent
15 that was the question he just answered.

16 THE COURT: I don't think so. As I understand the
17 question, the question is will VGX in the real world have
18 the value that's being ascribed to it for distribution
19 purposes.

20 THE WITNESS: Your Honor, I understand the
21 question. I think the ultimate decision of each account
22 holder is up to each account holder. So, each accountholder
23 decides as soon as they have access to VGX and they just
24 want to sell it, yes, I suspect it will go down more than it
25 would otherwise go down. However, I think that some of the

1 -- I think the customers are sophisticated. They understand
2 that this would move markets significantly. And we'll take
3 that into consideration before deciding all at once to sell
4 down their assets and do it in a timely fashion. Just as,
5 for example, if you have an unusual commodity, I think that
6 you would look to try to address it in the market in the
7 right way and not just sell it down immediately. So, there
8 are scenarios that if everybody was coordinated and all
9 agreed to sell at once, I think you're right. It would
10 massively reduce the value of VGX in total. But that's a
11 coordinated effort. And I don't see that happening
12 initially, but it's possible.

13 BY MR. LOREN:

14 Q I do not believe that at all. 80 percent supply being
15 released into the market in a single day. You know what
16 will happen. People will sell. (indiscernible).

17 THE COURT: Mr. Loren, I'll have to tell you the
18 same thing I've been telling other people. I know you're
19 not an attorney, but cross-examination is for the purpose of
20 asking questions, not stating your opinion, not arguing with
21 the witness. For purposes of asking questions and eliciting
22 evidence. Okay?

23 MR. LOREN: Thank you for that, Your Honor.

24 BY MR. LOREN:

25 Q My next question relates to Binance. During your

1 research in due diligence, what would you find on how
2 Binance is more credible than FTX. As we know, FTX is a
3 fraudulent company. So, why is Binance more credible? What
4 was your research?

5 A Binance is one of the largest exchanges in the U.S.
6 They also try to hold one-for-one reserves on their
7 exchange. They have a tremendous amount of volume and
8 capacity on their exchange. And then lastly, one thing that
9 I feel is confirmatory diligence that 97 percent of
10 customers that have voted also believe that this transaction
11 makes the most sense for them. So, besides our own
12 diligence that has been done by Moelis and BRG and the
13 company as well as by the unsecured creditors' advisors, we
14 believe that this is a value-maximizing transaction with a
15 company that is one of the largest players if not the
16 largest player in the U.S.

17 And to the extent that we feel as if -- that there are
18 issues that arise between now and closing, we have the
19 option to move into a toggle plan.

20 Q You state that Binance have good recordkeeping. Can
21 you tell us what research you completed in order to come to
22 this conclusion?

23 A My team as well as the Moelis team had the opportunity
24 to interview Binance and its management team as well as its
25 advisors to go through a number of concerns that they had as

1 well as the Unsecured Creditors' Committee advisors. And
2 those diligence meetings did not deter having this hearing
3 today with the current trajectory that we're on.

4 Q Great. Did you do the same meetings with FTX?

5 MR. SLADE: Your Honor, can I object? This
6 inquiry is about the past. It's not relevant.

7 THE COURT: Overruled.

8 MR. LOREN: It's very relevant.

9 THE COURT: The objection was overruled. The
10 witness can answer the question.

11 BY MR. LOREN:

12 A We did due diligence on FTX. As we all know, FTX is a
13 fraud. They defrauded not only millions of customers, but
14 also a number of regulatory bodies in the United States.
15 They were vetted by the same constituents. We believe that
16 we're fortunate that we did not get wrapped up in that
17 transaction and we believe that this transaction with
18 Binance is significantly better.

19 Q If you did the same due diligence with FTX in these
20 meetings, why would we trust you and say that you are
21 credible when you had the same meetings with Binance?
22 What's the difference?

23 A We didn't do the same diligence. We did more diligence
24 on Binance. And the reason being is that we are more
25 informed about the issues about FTX. Every day we all are.

1 And we continue to learn from the issues that FTX had. And
2 that is part of the questions that we had are addressed by
3 the meetings that we had even this week in terms of our
4 diligence in regards to Binance. So, the diligence was more
5 rigorous.

6 Q Okay. So, you believe that Binance (indiscernible)
7 solvent company (indiscernible) analysis and research. What
8 happens when we transfer our claims over and Binance goes
9 kaput, they go bankrupt? What's the next step?

10 MR. SLADE: I'll object. It's a hypothetical
11 question that assumes facts not in evidence.

12 THE COURT: Do you know the answer?

13 BY MR. LOREN:

14 A I think you're asking if to the extent that unforeseen
15 circumstances occur and Binance goes bankrupt? Is that
16 correct? Is that what you're asking of me?

17 Q That's correct. I am referring to claw backs, et
18 cetera. What would happen with our claims is Binance goes
19 under?

20 A I do not have full access to all the financials of
21 Binance to answer your question completely. But you would
22 be an unsecured creditor or a creditor of the Binance estate
23 to the extent that there was a bankruptcy of Binance. But I
24 don't know if you would be unsecured or secured depending on
25 what you elect to do during the hypothetical period between

1 when you become a customer and when that hypothetical
2 bankruptcy could occur.

3 Q Okay. I'm curious if there's any way to get any claw
4 back protection from Voyager funds being transferred to
5 Binance if Binance goes under.

6 THE COURT: What was the question?

7 BY MR. LOREN:

8 Q Do we have any claw back protections if let's say we
9 transfer the money from Voyager to Binance. Binance then
10 goes bankrupt, and then (indiscernible) money from Binance.
11 Would Binance be able to claw back our funds or can we have
12 protection from Voyager-specific funds?

13 THE COURT: The modifications to the sale
14 agreement that were made in January after I raised some of
15 these very same issues and the order that I entered that
16 approved the sale agreement are very clear that until such
17 time as the distributions are made to the customers, Binance
18 will hold anything that it holds strictly in trust. It will
19 not be considered Binance's property.

20 Once a customer keeps items in its account -- and
21 I think the customer is going to be in whatever boat other
22 Binance customers are going to be in. But for purposes of
23 the initial distributions, we I believe changed the terms of
24 the deal to make it clear that nothing would get stuck. So,
25 if you want your crypto and you withdraw it from Binance

1 right after it's distributed to you, my understanding -- and
2 I'll ask the Debtors and the Binance people here to correct
3 me if that's wrong. But my understanding is that it would
4 never be considered property of Binance and that it would
5 have been distributed to you by Binance solely in its
6 capacity as a distribution agent and couldn't get stuck in a
7 Binance bankruptcy. Is that right?

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: And is there -- did we set it up so
10 that there's a period of time within which customers can
11 make those withdrawals before we have any issues? I can't
12 recall.

13 MS. OKIKE: Your Honor, the way the plan -- sorry,
14 the transaction works is we will send crypt to Binance on a
15 weekly basis as customers sign off. That crypto has to be
16 put in the customer's account within five business days.
17 And upon that time, they can immediately withdraw
18 (indiscernible).

19 THE COURT: And did we put in the trust provisions
20 and the custody provisions that that custody arrangement
21 lasts up until a certain amount of time after items are put
22 into customer's accounts so that customers who want to take
23 it out right away will know that they're not at risk from
24 doing so?

25 MS. OKIKE: Sorry. I couldn't hear the last part,

1 Your Honor.

2 THE COURT: I don't want there to be an argument
3 that the trust relationship or the custody relationship
4 ended the nanosecond that something hit an account and
5 before a customer actually meaningfully could withdraw it.
6 So, it seems to me that provision about custody and trust
7 needs to be in effect for some period of time after it's
8 nominally credited to a customer's account so that if there
9 is a customer out there who wants to take it out right away,
10 that customer can do it without being told that, contrary to
11 our expectations, they've been made potentially an unsecured
12 creditor of Binance.

13 MS. OKIKE: Understood, Your Honor. I don't
14 believe that we addressed timing with respect to that, but
15 we can of course discuss with Binance (indiscernible).

16 THE COURT: Okay.

17 MR. LOREN: That is all my questions. Thank you
18 for your time.

19 THE COURT: Thank you.

20 MR. LOREN: Thank you for your time.

21 THE COURT: Thank you. Is there anybody else on
22 the phone who wishes to question the witness?

23 MR. SHEHADEH: I would like to, Your Honor. I
24 just want to know why (indiscernible) open up the Voyager
25 app and release that crypt from there. Binance -- whenever

1 you want to put money or crypto to Binance (indiscernible) -
2 - this is Alah Shehadeh for the record, Your Honor.

3 THE COURT: Who is speaking?

4 MR. SHEHADEH: Any time you put money or crypto to
5 Binance --

6 THE COURT: Who is speaking now?

7 MR. SHEHADEH: Alah Shehadeh.

8 THE COURT: No, you've asked your questions. I'm
9 sorry. You've had your chance.

10 Is there anybody who hasn't already done so --

11 MR. SHEHADEH: I'm asking another question.

12 THE COURT: You --

13 MR. SHEHADEH: Your Honor, I wrote you a letter
14 about this. You have to allow me to speak. I want to ask a
15 question. I am a pro se creditor. I want to ask a
16 question.

17 THE COURT: You've asked --

18 MR. SHEHADEH: You were answering a question for a
19 witness and you were not allowing them to answer. You were
20 answering for them.

21 THE COURT: You've --

22 MR. SHEHADEH: I'm asking a simple question. How
23 is --

24 THE COURT: You've had -- Mr. Shehadeh, be quiet.

25 MR. SHEHADEH: (indiscernible).

1 THE COURT: Be quiet. Be quiet. Be quiet.

2 MR. SHEHADEH: Why are you (indiscernible) our
3 money?

4 THE COURT: Lorraine, cut him off.

5 MR. SHEHADEH: (indiscernible)

6 THE COURT: Cut him off.

7 MR. SHEHADEH: (indiscernible) steal our money.
8 We've got to pay a fee --

9 THE COURT: Lorraine, cut him off.

10 MR. SHEHADEH: -- to transfer our money out of
11 there.

12 THE COURT: Cut him off. You've lost your right
13 to participate. You're not listening. Cut him off.

14 MR. SHEHADEH: (indiscernible) questions. You're
15 answering the questions for the witness. You are not for
16 the creditor. You are helping yourself. None of you are.

17 THE COURT: Lorraine, cut him off.

18 MR. SHEHADEH: (indiscernible). It's a crime.
19 It's a crime. You guys are committing fraud.

20 THE COURT: We are going to adjourn until Mr.
21 Shehadeh is not only excluded, but barred from rejoining.
22 You have forfeited any right to participate in this
23 proceeding both by your contemptuous conduct and your
24 refusal to listen to ordinary court rules and the fact that
25 you continue to desire to treat this as a podium for you to

1 scream about your grievances instead of to participate in
2 the court hearing. You are barred from participating. We
3 will resume when you are excluded.

4 (Recess)

5 THE COURT: All right. We will resume. I would
6 like to let any other accountholders on the phone know it
7 appears that Mr. Shehadeh, even after we cut him off, may
8 have been speaking through somebody else's line. He is
9 barred. If you let him speak through your line, you will be
10 barred as well. And you are under my direct instruction not
11 to allow him to speak indirectly through your line. Is that
12 understood? Okay.

13 Now, is there anybody on the phone who hasn't
14 already questioned the witness who would like to question
15 the witness?

16 MR. JONES: Yes, Your Honor. Seth Jones.

17 THE COURT: Who is this?

18 MR. JONES: Seth Jones.

19 THE COURT: Seth Jones? Okay.

20 MR. JONES: I have a question. Earlier, the
21 witness said that the toggle wasn't needed in the FTX deal.
22 But contrary to that, UCC said that FTX wouldn't allow
23 (indiscernible). So, which is it?

24 THE WITNESS: I couldn't hear the question.

25 THE COURT: I'm afraid I couldn't hear you clearly

1 enough. You said that the UCC earlier --

2 MR. JONES: The toggle. You said the toggle
3 wasn't needed for the FTX deal, but the UCC said that FTX
4 would allow them to add the toggle to the plan.

5 THE WITNESS: I understand.

6 THE COURT: Okay.

7 MR. JONES: So, which is it?

8 THE WITNESS: Sir, let me try to paraphrase your
9 question. You're asking -- and just if you could tell me if
10 I've got it right. You're asking if we had a toggle plan
11 when there was the FTX initial bid. Is that correct?

12 MR. JONES: No, yeah. You said that -- earlier
13 you said that the toggle wasn't needed in the FTX deal
14 because FTX was a vibrant company. But the UCC in the court
15 documents said that FTX wouldn't allow them to add the
16 toggle to the plan.

17 THE WITNESS: I think at that point in time, we
18 believed that the FTX deal was appropriate. We did not have
19 a toggle; I think as you correctly stated. I think -- and
20 what we've learned from that situation and the fraud that
21 FTX has perpetrated upon you and all of us and many other
22 citizens, we made sure that there's a toggle to address the
23 fact that there wasn't a toggle.

24 MR. JONES: I understand. But UCC wanted the
25 toggle. But the UCC said that they wanted the toggle, but

1 they weren't allowed to have it. So, I mean, which is it?

2 MR. SLADE: Your Honor, I object to the relevance
3 of that.

4 THE COURT: Well, I am not sure what statement by
5 the UCC are you referring to, Mr. Jones?

6 MR. JONES: UCC said that FTX, they wanted to have
7 a toggle, a backup toggle. And FTX refused to allow them to
8 have a toggle in the first APA of FTX.

9 MS. OKIKE: Your Honor, I'm happy to answer the
10 question.

11 THE COURT: Yeah, go ahead, Ms. Okike.

12 MS. OKIKE: So, it is correct that we requested a
13 toggle from the FTX plan, and FTX refused. And it was
14 removed from (indiscernible).

15 MR. JONES: Thank you. I just wanted to clarify
16 that.

17 THE COURT: Okay.

18 MR. JONES: Thank you.

19 CROSS-EXAMINATION OF MARK RENZI

20 BY MR. JONES:

21 Q Next question. (indiscernible) detailed investigation
22 by Forbes has raised significant questions about the
23 management and custody of customer assets at Binance. Can
24 you address those concerns?

25 MR. SLADE: I object. It assumes facts not in

1 evidence. I'm not sure what he's talking to.

2 THE COURT: Are you aware of the Forbes article
3 about Binance and do you have any knowledge about any of the
4 issues that are raised there?

5 THE WITNESS: I have not read the Forbes article.

6 BY MR. JONES:

7 Q (indiscernible) there's a lot of them that -- coming
8 out just like with FTX raising significant concerns
9 (indiscernible). I just wanted to -- the due diligence you
10 did in the Binance deal (indiscernible) the FTX deal.

11 A Yeah. We've spent more time doing due diligence on
12 Binance, including this week. We have met with the company
13 and its advisors to make sure that a number of the questions
14 have been addressed to the best of our ability. We've also
15 been in coordination with the UCC advisors to make sure that
16 all of their questions were addressed. They were also
17 present in those meetings and we believe that we have a
18 construct in hand and in place to address the fact that if
19 the Binance deal does not work, we have a toggle plan. So,
20 yes, we feel as if the diligence has been more robust, it's
21 been ongoing. I believe that it occurred this week, earlier
22 this week, on top of other days prior to this week. And we
23 believe that it's been more robust than what it was with
24 FTX.

25 Q You said that Binance holds a one-to-one ratio of

1 coins, but you also said the same thing about FTX saying
2 that they held one-to-one assets in coins. So, how do we
3 know it was not (indiscernible) deal?

4 A I don't think I testified that FTX holds one-to-one.

5 Q I got confused with the (indiscernible). Sorry about
6 that.

7 A No problem. No problem.

8 Q All right. That's all my questions for now. Thank
9 you.

10 THE COURT: All right. Thank you. Anybody else
11 on the phone?

12 UNIDENTIFIED SPEAKER: Yes, Your Honor, I have a
13 few questions.

14 THE COURT: Who is this?

15 UNIDENTIFIED SPEAKER: This Andre (indiscernible),
16 pro se creditor.

17 THE COURT: Okay. Please proceed.

18 UNIDENTIFIED SPEAKER: So, can you -- Mr. Renzi,
19 can you tell me again once again what the estimated recovery
20 would be if the Binance deal does go through, the
21 percentage?

22 THE WITNESS: Excuse me. The estimated recovery
23 for the Binance deal I believe in my declaration is
24 approximately 50 percent as of the 12/18 prices that are
25 represented in my declaration. I know --

1 UNIDENTIFIED SPEAKER: Okay. And if the deal
2 doesn't go through?

3 THE WITNESS: I also know that the prices have
4 appreciated in your favor and that the recovery levels are
5 in the 70 percent range. I've been on the stand most of the
6 day, so I am not sure what's happening in the markets, but I
7 think it's roughly in the 70 percent range now.

8 UNIDENTIFIED SPEAKER: Okay. So, in December --
9 as of December 18th, it was roughly 50 percent. But you're
10 saying as of today it's potentially roughly 70 percent?

11 THE WITNESS: In the seventies, that's correct.

12 UNIDENTIFIED SPEAKER: Is that correct?

13 THE WITNESS: Yes.

14 UNIDENTIFIED SPEAKER: Okay. And if the deal
15 doesn't go through, what would the recovery percentage be?
16 Or is it the same?

17 THE WITNESS: So, I can -- so I can -- I'm happy
18 to do it, I would like to grab my declaration just so I can
19 remind myself of my chart if you would give me a second.

20 THE COURT: You have to clarify the question. Are
21 you asking what would happen if we did the toggle plan
22 instead of the Binance deal, or are you asking what would
23 happen if we had no plan and went to Chapter 7?

24 UNIDENTIFIED SPEAKER: No, if we went to the
25 toggle plan, what would the recovery percentage be. Yeah.

1 THE WITNESS: Just once second. I'll turn to it.

2 UNIDENTIFIED SPEAKER: Okay.

3 THE WITNESS: So, again, my declaration -- I'll
4 just go left to right if that's okay, if it helps you. If I
5 look at accountholder claims and recovery under the Binance
6 plan, it's roughly 50 percent. Under the toggle plan it's
7 roughly 45 percent. In the high case scenario and in a
8 liquidation, it's 38 percent. In the low case scenario,
9 it's 35 percent. Hopefully, that answers your question.

10 UNIDENTIFIED SPEAKER: Okay. Thank you for that.

11 THE WITNESS: Hopefully, that answers your
12 question.

13 UNIDENTIFIED SPEAKER: Yeah, it does. And now
14 earlier you had mentioned an issue with unsupported coins.
15 If I understand right, why Voyager couldn't just distribute
16 whatever assets are remaining because of these unsupported
17 coins. What percentage of the total crypto assets are in
18 unsupported coins?

19 THE WITNESS: I believe I -- if you give me one
20 second, I have it also in my declaration. So, sir, on
21 Paragraph 120 -- I'll just read this to you in case we don't
22 have it. There are technical limitations that would prevent
23 the Debtors from making in-kind distributions on certain
24 types of cryptocurrency on the Debtor's platform. There are
25 35 cryptocurrency tokens for approximately 17 percent of the

1 debtor's cryptocurrency portfolio based on equivalent USD
2 value. Hopefully, that answers it. That is Paragraph 120.

3 BY UNIDENTIFIED SPEAKER:

4 Q I'm sorry, so that's 70 percent of the (indiscernible)
5 on these unsupported coins?

6 A No, you probably misheard me. It's 17, one, seven.
7 Seventeen.

8 Q Seventeen.

9 A Yes.

10 Q Seventeen percent. Okay. Okay. So, roughly 83
11 percent --

12 A Yeah. Let me just do the numbers one more time to be
13 helpful. So, it's 35 coins. And the USD representation of
14 that is 17 percent overall. So, it's obviously -- those
15 coins are of lower overall value, but it's still 17 percent,
16 which is meaningful. That's Paragraph 120 if you're looking
17 for it.

18 Q Right. Roughly -- let's just say \$200 million out of
19 the \$1.3 billion, right?

20 A Mm-hmm.

21 Q Okay. The majority of crypto assets could be returned
22 to the Voyager platforms if need be.

23 A Yes. And I think that's right. And that's certainly a
24 majority, especially if you do the math if there's -- let's
25 just keep it simple. If there's a hundred coins, it's 65 --

1 you know, 65 percent. Or if you do it on a dollar-weighted
2 basis, you're right, it's 83 percent as of the time that
3 this analysis was done, which was around 12/18. That
4 proportionately should be roughly the same. So, you're
5 absolutely right. They can do most of it on a proportionate
6 basis or on a dollar proportion basis also.

7 Q Okay, great. Great. And if I understand right
8 (indiscernible) with the Binance deal, the assets would be
9 basically placed in a trust, in some kind of trust. And
10 Binance would just essentially be the distribution medium
11 for us to get our funds back. Is that correct?

12 A I think you said that well.

13 Q Okay. Okay. So, is there really any risk then -- I
14 mean, what -- maybe I'm not thinking about this correctly,
15 but what is the risk then of going to Binance if our assets
16 will be held in trust and they're just going to just be the
17 distribution medium. Is it really just post...

18 A Yeah. You were hearing from my testimony that we
19 acknowledge that some have different views of risk than
20 others. That's the first premise. The second premise is
21 that we try to take into consideration some due diligence
22 and make sure that we understood the bid, we think that
23 Binance is the highest and best value, and that to the
24 extent that we feel uncomfortable with that transaction in
25 any way, we have a toggle. But to your question

1 specifically, I think you may have a different risk
2 tolerance than others obviously based on my testimony today
3 and questions today. Others perhaps don't see it the same
4 way you do. But nonetheless, we think the way -- the
5 construct and process that we've laid out could get
6 cryptocurrency back in kind. We think it is very well
7 thought out, and we have a toggle plan if the Binance plan
8 doesn't work. Hopefully, I answer your question.

9 Q Yeah. And just to be clear, I'm definitely not in
10 support or not in support. I'm just trying to understand
11 what the actual risk is, where is my risk by going to the
12 Binance deal. And from what I'm seeing, if all our assets
13 are being (indiscernible) in a trust okay, which will not be
14 Binance property and, you know, we'll have a period of time,
15 as the Judge was saying earlier, there's not going to be an
16 a-ha after they transfer our funds to the Binance
17 (indiscernible), well, now it's ours or now, you know,
18 whatever. So, if there's no risk of that and they're just a
19 distribution mechanism, then really -- again I might be
20 seeing this wrong. Maybe the risk is contained, I guess. I
21 might have just answered my own question. No problem.

22 One last question. In your due diligence with Binance,
23 have you seen their books? Has anyone really dug into their
24 books?

25 A We've reviewed numerous documents with the company. I

1 know that members of my team were on site with their
2 advisors and some of the company members. And I believe
3 that they've gone through a number of books and records to
4 make sure that we're comfortable.

5 And furthermore, because there's checks and balance,
6 the unsecured creditors' committee advisors also were preset
7 at that meeting. So, it's not just the Debtor's advisors,
8 but it's also your representatives were also in the room,
9 too.

10 Q Okay. That doesn't hold much value anyway. Okay.
11 That is all my questions. Thank you.

12 A Thank you.

13 THE COURT: Okay. Is there anybody else on the
14 telephone who wishes to cross-examine the witness? All
15 right. Committee counsel?

16 MR. KIRPALANI: Yes, Your Honor. Thank you.

17 CROSS-EXAMINATION OF MARK RENZI

18 BY MR. KIRPALANI:

19 Q Mr. Renzi, good afternoon. So, you testified that you
20 conducted diligence on Binance, correct?

21 A Yes, my team has.

22 Q And in connection with that diligence, Binance made a
23 number of representations to you and others?

24 A Yes, they ha.

25 Q And do you recall the question from one of the

1 questions about the comingling of cryptocurrency?

2 A I did.

3 Q And didn't Binance represent to you and other
4 professionals that Binance U.S. segregates customer crypto
5 from Binance U.S.'s cryptocurrency?

6 A I believe so. I checked my notes. I believe that's
7 right.

8 Q Okay. There were a series of questions about the
9 relationship between Binance U.S. and Binance Global. Do
10 you recall that?

11 A I do.

12 Q The purchasing entity here is BAM Trading Services
13 Inc., DBA Binance U.S. Isn't that right?

14 A Yes.

15 Q And they are a Delaware corporation?

16 A I believe they're a Delaware corporation.

17 Q And in connection with the diligence that you did and
18 the other professionals, did you look into the financial
19 capabilities of BAM Trading Services Inc., DBA Binance U.S.?

20 A We reviewed numerous documents about their books and
21 records.

22 Q Based on the diligence of BAM Trading Service Inc., DBA
23 Binance U.S. on their finances, are you comfortable that
24 they have the financial wherewithal to close?

25 A As of today, yes.

1 Q Another representation made to you by Binance was that
2 only employees of Binance U.S., not Binance Global, are able
3 to move or withdraw customer cryptocurrency over Binance
4 U.S.'s platform? Isn't that right?

5 A I believe it's only Binance U.S. employees.

6 Q Okay.

7 A Correct.

8 Q There was a question asked to you about the difference
9 between how Binance U.S. holds customer crypto versus how
10 Voyager held customer crypto. Do you remember that?

11 A I do.

12 Q Another representation made to you was that Binance
13 U.S. does not lend or rehypothecate customer crypto. Do you
14 remember that?

15 A I do.

16 Q There were some comparisons being drawn between the
17 deal with FTX and the deal with Binance. Do you recall
18 those questions?

19 A There were many.

20 Q One of the protections that was put in place in the
21 Binance deal is that customer crypto go through Binance over
22 time. Is that right?

23 A Yes. Over -- in succession and over weeks.

24 Q In succession. And so, customer crypto will only go to
25 Binance U.S. once that customer has (indiscernible) with

1 Binance U.S. Isn't that right?

2 A That's my understanding.

3 Q And that limits the time period that customer crypto
4 will be on Binance U.S. if they choose to get
5 (indiscernible). Isn't that right?

6 A Yes.

7 Q So, what protections does that give? Why is that more
8 protectorate of customer crypto than the FTX deal?

9 A Well, the FTX deal is going to be transferred quickly
10 and in bulk. This is over time and more protective, make
11 sure that it's done ratably and slowly to determine if there
12 are any problems as we are doing it. So, I think it's much
13 more conservative than the way we are approaching it.

14 Q So, to put it plainly, all the crypto doesn't go to
15 Binance U.S. right away, right?

16 A Correct.

17 Q It goes on a weekly basis and only for those customers
18 that have onboarded with Binance U.S., right?

19 A Correct.

20 Q So, if something were to happen with Binance U.S., it's
21 only the customer crypto that went over (indiscernible),
22 isn't that right?

23 A That's right.

24 Q You submitted a declaration in support of the plan
25 which includes this Binance deal?

1 A Yes.

2 Q Based on the diligence that you've done to date, are
3 you still supportive of the Binance deal?

4 A Yes, I am.

5 MR. KIRPALANI: I pass the witness, Your Honor.

6 THE COURT: All right. Any redirect by the
7 Debtors?

8 MR. SLADE: No, Your Honor.

9 THE COURT: Okay. Just briefly, Mr. Renzi, you
10 just said that you -- that Binance represented that it
11 doesn't lend or rehypothecate. Maybe I misheard you, but I
12 thought you said earlier in your testimony that they do
13 rehypothecate?

14 THE WITNESS: Yes, Your Honor. I think I was
15 mistaken. I went back and checked my notes. They do not
16 rehypothecate. They hold it one for one. I think that's a
17 correction.

18 THE COURT: Okay. Now, in some of the objections,
19 there have been questions about specific matters. One was
20 whether you have any knowledge of safeguards that exist to
21 stop assets from being transferred off the Binance U.S.
22 platform, I assume at the direction of the parent or
23 somebody else. What safeguards are in place to prevent that
24 from happening to your knowledge?

25 THE WITNESS: Your Honor, do you mean Binance

1 itself or just from the customer perspective? Which
2 perspective? Sorry.

3 THE COURT: Well, I know you said that they
4 represented to you that only the U.S. employees have access
5 to the keys. What procedures are safeguards are in place to
6 prevent the parent from telling the U.S. employees to just
7 transfer things off to the parent?

8 THE WITNESS: I believe they are separate legal
9 entities with separate management teams that they
10 specifically hold them differently. I can't anticipate if
11 there's malfeasance. But to my understanding, they will try
12 to do everything they can to protect it. But I can't
13 survive how far an entity might redirect a U.S. entity.

14 THE COURT: Is that a possibility you discussed
15 with them or did you get any assurances from them on that
16 point?

17 THE WITNESS: Other than what I've already
18 represented, they said that they wouldn't. But I don't know
19 any other procedures that they have in place to do that.

20 THE COURT: This might be more of a question for
21 Mr. Tichenor. But in his declaration, he says as part of
22 the due diligence that in response to news reports about the
23 transfers of \$400 million to Merit Peak Limited, that the
24 Debtors have done supplemental due diligence. And it was a
25 little vague about what questions were asked and what the

1 answers were and whether that loop has really been closed or
2 whether it's still a point of discussion. Do you have any
3 knowledge of that?

4 THE WITNESS: I would defer to Mr. Tichenor on
5 that subject, Your Honor.

6 THE COURT: I'm sure he appreciates that.

7 THE WITNESS: I spent quite a lot of time with you
8 this afternoon, Your Honor.

9 THE COURT: Okay. Let's (indiscernible) next.
10 All right. Thank you very much. You are excused.

11 All right. It is 4:30. Do you want to begin with
12 another witness or continue tomorrow?

13 MR. SLADE: We would like to try to finish. I
14 think our next witness, Mr. Kirpalani (indiscernible).

15 MR. KIRPALANI: Good afternoon, Your Honor.
16 Susheel Kirpalani for Quinn Emanuel on behalf of the
17 Debtors. And more specifically speaking through the special
18 committee of independent directors of Voyager Digital LLC.

19 The next witness that we'd like to call is Mr.
20 Timothy Pohl, who is one of the two independent directors of
21 Voyager Digital LLC. Mr. Pohl, who doesn't live in New
22 York, just has some restrictions on his availability
23 tomorrow. And so, we would like to attempt to get his
24 testimony done today if that's at all possible.

25 THE COURT: We can try, but my guess is we're not

1 going to be able to. I mean, he's testifying about the
2 releases, right?

3 MR. KIRPALANI: The estate releases, yes.

4 THE COURT: Yeah. I suspect based on how many
5 questions we had on Mr. Renzi's issues, that we're probably
6 going to have a lot on Mr. Pohl's issues, too.

7 MR. KIRPALANI: Can I confer with co-counsel?

8 THE COURT: Sure.

9 MR. KIRPALANI: Thank you.

10 MR. SLADE: Your Honor, just briefly, if we were
11 to continue, how long would Your Honor be prepared to go
12 today?

13 THE COURT: I haven't asked the court staff how
14 long they are set up to go. I mean, it's usually not an
15 issue for me. I don't know if you have any issue. You're
16 okay? Certainly, we could go -- you're all right, Danny?
17 Certainly, we can go to 6:00 or a little later. I mean, I
18 don't have any personal issue.

19 MR. KIRPALANI: Yeah, we'd like to plow ahead,
20 Your Honor, if possible.

21 THE COURT: Okay. Let's do what we can do.

22 MR. KIRPALANI: Thank you, Your Honor. Again, for
23 the record, Susheel Kirpalani of Quinn Emanuel on behalf of
24 the Debtors. We would like to call Timothy Pohl to the
25 witness stand.

1 THE COURT: Mr. Pohl, do you swear that the
2 testimony you are about to give will be the truth, the whole
3 truth, and nothing but the truth, so help you God?

4 MR. POHL: I do.

5 THE COURT: State your full name for the record,
6 please.

7 MR. POHL: Timothy Pohl.

8 THE COURT: All right. Counsel, please proceed.

9 MR. KIRPALANI: Thank you, Your Honor. Your
10 Honor, we filed -- it's Exhibit 3 for the trial record
11 today, the Declaration of Timothy Pohl, as his direct
12 testimony. It's Docket Number 1111. I understand the prior
13 declaration received objections as to being admitted as
14 direct. We would like to ask for this witness that his
15 declaration be deemed admitted for his direct. He is
16 available for cross-examination. And in particular, I would
17 like to point out that much of his direct testimony relates
18 to the special committee's independent investigation and
19 report which has been on the docket since February 14th,
20 2023 for all parties in interest to review. And to my
21 knowledge, no specific objections at confirmation related to
22 any of the particular findings therein. But he is here and
23 available to answer cross-examination. But I will proceed
24 any way Your Honor thinks appropriate.

25 THE COURT: On the first stance, are there any

1 objections to the admission of Mr. Pohl's declaration into
2 evidence? All right.

3 Anybody who desires it will have an opportunity to
4 cross-examine him. But there are no objections, so his
5 declaration is admitted into evidence.

6 MR. KIRPALANI: Thank you, Your Honor.

7 DIRECT EXAMINATION OF TIMOTHY POHL

8 BY MR. KIRPALANI:

9 Q Mr. Pohl, I will just ask you briefly. Have you had a
10 chance to review your declaration since it was filed two
11 days ago?

12 A I have.

13 Q Do you have any changes that you would make to the
14 declaration?

15 A No.

16 Q Okay.

17 MR. KIRPALANI: We have nothing further on direct,
18 Your Honor.

19 THE COURT: All right. Is there anybody in the
20 courtroom who wishes to cross-examine Mr. Pohl?

21 Hang on a second. I'll get to the telephone
22 people in a minute. I just want to start with the people
23 who are here in the courtroom. Is there anybody here in the
24 courtroom who wishes to cross-examine Mr. Pohl? Okay. How
25 about on the telephone? Is there anybody on the telephone

1 that wishes to ask questions of Mr. Pohl?

2 MR. HENDERSHOTT: Your Honor, this is Tracy
3 Hendershott, pro se creditor. Again, Your Honor, I haven't
4 even seen this submission, so hard to ask questions. Can we
5 get a summary of it from him verbally? Is that possible?

6 THE COURT: Sure.

7 MR. KIRPALANI: Absolutely, Mr. Hendershott. This
8 is Susheel Kirpalani from Quinn Emanuel. And we will
9 definitely give a summary of his testimony and then we can
10 pass the witness to the extent you've got questions.

11 MR. HENDERSHOTT: (Indiscernible) --

12 BY MR. KIRPALANI:

13 Q Very briefly, Mr. Pohl, can you describe your
14 background and experience for the Court?

15 A Sure. I've been in restructuring business for a little
16 over 30 years. I started as an attorney at Jones Day where
17 I had been an associate for about seven years and then
18 became a lawyer at Skadden Arps in 1999 where I stayed until
19 2008. By the time I left, I was the co-head of Skadden's
20 worldwide restructuring practice. In 2008, I left to become
21 a managing partner at Lazard Freres where I was an
22 investment banker in restructuring for the next decade. I
23 retired from Lazard in the summer of -- or the fall of 2019.
24 And I have been doing a variety of things ever since,
25 including sitting on some boards of distressed companies as

1 an independent director.

2 Q Thinking about boards of distressed companies that
3 you've sat on, are any of those companies, companies that
4 Kirkland & Ellis has been counsel to?

5 A Voyager is the only company I have been asked by
6 Kirkland and nominated by Kirkland to be a director on. I
7 was asked in one other instance to be a director by
8 creditors. Kirkland represented the company.

9 Q Okay. And what about my firm, Quinn Emanuel? Have we
10 represented you as an independent director in any other
11 engagements?

12 A (indiscernible).

13 Q Do you have any connections with any potential party
14 that you've been investigating in the course of your duties
15 as a member of the independent special committee here?

16 A No.

17 Q How did you come to serve on the board of Voyager
18 Digital LLC and can you tell us when that happened?

19 A I think fight before the July 4th (indiscernible)
20 called me and asked me if I would be interested in being an
21 independent director, and specifically being on the special
22 committee that was going to be charged with conducting an
23 internal investigation (indiscernible) conducting. I said
24 that I would. (indiscernible) that's the only time I have
25 been asked by Kirkland to be on a board (indiscernible).

1 Q Are there any other members of the special committee at
2 Voyager Digital LLC?

3 A Yes. Ms. Jill Frizzley is the other (indiscernible).

4 Q Did you know Ms. Frizzley before serving on the board
5 with her?

6 A I do of her. She was an attorney for I want to say
7 around 20 years. I know by the end I think at Weil Gotshal.
8 Or maybe the whole time. I'm not sure. I'm not I've had --
9 I've cross paths with her from time to time, but I didn't
10 know (indiscernible).

11 Q Did you ever serve on a board with her before?

12 A No.

13 Q In your review, how did the board function? Well,
14 poorly, acrimony, consensus?

15 A Well, I mean, the two of us were the two independent
16 directors at Voyager LLC. You know, we were there for a
17 particular purpose, which was to conduct this investigation.
18 We hired counsel and we moved on from there.

19 Q Okay. And what did you consider the primary role for
20 the special committee?

21 A Our primary role was to investigate historical
22 transactions, really mostly about the -- the real impetus
23 for the special committee I think was to look into the
24 lending practices around the (indiscernible) capital loans
25 that the company made. But as part of that, we looked at

1 (indiscernible) transactions and regulatory issues, we
2 looked at the company's lending practices, the company's
3 risk management practices. We sort of looked at everything
4 to determine (indiscernible) with the assistance of counsel
5 of course to whether or not there were any viable causes of
6 action owned by the estate.

7 We specifically did not look at and were not charged
8 with looking at individual causes of action, customer causes
9 of action, regulatory causes of action, but estate-only
10 causes of action arising out of historical transactions and
11 practices.

12 Q Did the special committee consult with the statutory
13 unsecured creditors' committed in the course of its work?

14 A We did extensively. One of the first things that we
15 determined, particularly in light of the nature of the
16 company's balance sheet with the creditors were and there
17 was a creditor's committee, and that they were going to
18 conduct their own investigation as it were. There was no
19 reason not to be completely cooperative and hand-in-glove
20 with them in that exercise, and that's what we set out to
21 do.

22 Q And you said there was no reason not to be cooperative
23 with them. Was there a reason to be cooperative with them
24 in your view?

25 A Yeah. They're the primary fiduciary constituent

1 representing really the only real creditor class in this
2 case.

3 Q So, did you consider their views important to you?

4 A Very important.

5 Q What did the special committee do in terms of an
6 investigation? You hear that word investigation, what does
7 it actually mean?

8 A So, the first thing you do of course is hire counsel.
9 And we hired you. And we then set out to -- I just call it
10 discovery phase where we talked about the types of
11 information that we would like to review and to have you
12 review from the Debtor. And so, there were a series of --
13 I'm doing this from memory, but 25 or 30 separate
14 information requests that were (indiscernible) over the
15 course of the investigation asking for documents. There
16 were phone conversations and then there were a series of
17 interviews that were conducted. I think there were 12
18 separate interviews that people conducted of company
19 officers and employees. And that was how we conducted the
20 investigation.

21 Q And did the special committee have any financial
22 advisor available to it?

23 A We didn't hire our own, but we were -- we had complete
24 access to BRG and Mr. Renzi and his whole team. And we in
25 fact availed ourselves of that and we had information

1 sessions, Ms. Frizzley and myself with you, in order to
2 understand things better things that we didn't understand.
3 I think (indiscernible) at the beginning of the case we were
4 crypto neophytes. So, we had a lot to learn. So, we
5 availed ourselves as that. And I (indiscernible) as well
6 separate and apart from Ms. Frizzley and myself. We
7 certainly had access to Kirkland & Ellis (indiscernible) any
8 conversations as part of the investigation.

9 Q Did the special committee's investigation culminate in
10 any written report?

11 A There was a written report. So, the investigation
12 lasted approximately two months. I think it was July and
13 August. A little longer than two months. And in early fall
14 your firm prepared a draft. We reviewed it, we discussed
15 it, and I think the culmination of that work was a -- I want
16 to say about a 60-page, single spaced report that was
17 finalized I think it was in early October if I remember
18 right. That was the report.

19 Q And just so that we have it in the record, to your
20 knowledge was that report filed publicly on the docket in a
21 redacted form?

22 A It was. Not at that time, but it was filed I think in
23 redacted form I want to say in February. Does that sound
24 right?

25 Q Docket Number 1000, yes. And what was the ultimate

1 conclusion of the special committee as to whether the estate
2 had any causes of action against insiders of Voyager?

3 A Our ultimate conclusion was that there may be
4 cognizable claims for breaches of fiduciary duty to care
5 against two of the company's senior officers, Mr. Ehrlich
6 and Mr. Psaropoulos.

7 Q And what did the special committee do with those
8 findings or with that conclusion?

9 A Well, we did a number of things. So, first of all, I
10 think our conclusion was that there may be cognizable causes
11 of action, non-frivolous causes of action. That's not the
12 same thing as concluding that there would be -- that they
13 were wonderful causes of action or slam-dunk winning causes
14 of action, but cognizable causes of action that -- number
15 one. Number two, we concluded that they would be pretty
16 hard to prosecute successfully, which we talk about. And
17 three, we spent some time determining whether or not those
18 two individuals had the financial wherewithal to pay
19 significant judgement. And then number four, we were sort
20 of very cognizant of the fact that this director and officer
21 liability insurance that remains intact and is staying and
22 could be available to satisfy potential judgements or
23 (indiscernible).

24 So, with all of those things in mind, we thought that
25 the best course of action and judgement was to see if we

1 could put together a settlement that would include
2 protecting the D&O policy for the benefit of the creditors
3 to the best of our ability as well as to obtain some
4 monetary judgement from the monetary contribution from those
5 two potential parties. Keeping in mind, you know, what
6 their financial wherewithal was.

7 Q You said a lot there. But rather than me home in on
8 each element of your testimony, perhaps I can ask you to
9 just summarize the terms of the settlement reached with Mr.
10 Ehrlich and Mr. Psaropoulos. And if you need to refer to
11 your declaration, it is in evidence. You can do that. And
12 then perhaps we can pass the witness in the interest of
13 time.

14 THE COURT: Let me just ask. Somebody on the
15 telephone, we've got some noise coming over your line.
16 Please mute yourselves unless you are asking questions or
17 unless you have an evidentiary objection to a question.
18 Okay? Thanks.

19 BY MR. KIRPALANI:

20 A Let me do the easy parts first (indiscernible) there's
21 some more complicated legal parts which I might refer to my
22 declaration to make sure I say it right. But in essence,
23 the settlement -- let's do them one at a time.

24 With respect to Mr. Ehrlich, the settlement is for him
25 to pay to the estate -- he had received a bonus prior to

1 filing the bankruptcy (indiscernible) the filing of the
2 bankruptcy. He receive a bonus in the ordinary course of
3 business in our view of about \$1.9 million. And he paid
4 taxes on that. So, his net bonus net of taxes was
5 approximately \$1.12 or \$1.13 million. And we as part of our
6 settlement negotiated for him to return those funds, all of
7 them, to the estate, as well as to have the ability to, if
8 it's available, if there is a tax refund that is applicable
9 to the unwinding of that bonus, if you will, then the estate
10 would get the benefit of that as well.

11 That amount of money was a pretty significant amount of
12 money relative to what his ability to pay. But that's what
13 we got from him as part of the settlement.

14 Q And let me just interrupt you there. You said it was a
15 pretty significant part relative to his ability to pay. How
16 do you know what his ability to pay was?

17 A So, before we were willing to consider what settlement
18 we would be willing to support, we asked -- we required that
19 there be disclosure of his personal financial assets and
20 liabilities and we required that those be provided under
21 oath, if you will. There was both a -- I don't think it was
22 an affidavit, but there was a sworn statement. And then he
23 was deposed.

24 Q Thank you. And were there any other elements to the
25 Ehrlich settlement before we move on?

1 A Yes. A couple. And now it gets a little harder to
2 describe (indiscernible). So, (indiscernible)
3 subordinating. He has rights to indemnification for the
4 company if he is sued -- I just want to back up for a
5 second. The estate's claims against those two individuals
6 are not being released. So, part of the settlement was that
7 those claims are not released so that the claims against
8 them can continue to be prosecuted. And to the extent that
9 there's a judgment or a settlement, the estate can look to
10 the D&O coverage with respect to (indiscernible).

11 On top of -- but as a result of monetary payment, there
12 is no more recourse against his personal assets. And the
13 reason I said it that way is because he has the right to be
14 (indiscernible) for both and (indiscernible) and he also has
15 the right (indiscernible). And he also has the right to be
16 indemnified for defense costs, which (indiscernible).

17 So, with respect to the settlement indemnification
18 rights, he has waived his rights essentially to receive
19 indemnification from the estate.

20 The next thing if we're going to do it person-by-
21 person, there's a little bit of complexity around the
22 insurance policies. So, I think it's probably easier just
23 to go and stay with the monetary pieces between the two
24 people and then talk about the insurance.

25 Q Sure.

1 A To me it's easier to think about it that way. And then
2 with respect to Mr. Psaropoulos, where I think we thought
3 that the relative strength of the claims were different and
4 not exactly the same -- still not frivolous. We had a
5 similar approach. We insisted on gaining information under
6 oath and through depositions about his personal financial
7 situation. And the settlement with him is that he is -- has
8 some crypto on the exchange. Right? So, he is essentially
9 subordinating 50 percent of his rights to receive whatever
10 he would receive under the plan as -- that's how he is
11 contributing financially. That value of that is
12 approximately -- I think the last time we calculated fell at
13 \$60,000. And then he is also waiving his rights to
14 indemnification (indiscernible). And then there is for both
15 of them the more complicated piece with respect to the
16 (indiscernible) insurance policy.

17 Q Okay. You mentioned that the estate was not actually
18 releasing the claims against them, but just agreeing not to
19 seek recourse against their personal assets beyond what they
20 were contributing. Did I get that correct?

21 A You did.

22 Q What about customers who have claims against the Debtor
23 or claims that they believe they have against individuals?
24 Are those being released under the settlement that we
25 reached with them?

1 A They're not being released. So, the only releases
2 (indiscernible) that are being released under the plan are
3 (indiscernible). The only releases with respect to them are
4 releases of estate causes of action. So, individual
5 customers who believe that they have claims against either
6 of them or any other officer and director, those claims are
7 not being released. Same with (indiscernible). They're not
8 released.

9 Q Do you recall there was a time in the internal
10 investigation when you became aware of an insurance policy
11 that was obtained by the debtors shortly before the filing?

12 A Yes.

13 Q And what was your reaction to learning that
14 information?

15 A Here's what we learned. So, the company had a policy
16 or a number of policies that essentially amounted to
17 (indiscernible). Shortly before (indiscernible) filing,
18 getting ready for the filing, the company procured a second
19 policy as part of a larger improvement in their overall D&O
20 insurance situation. So, what we came to learn was that the
21 company paid -- I think it was around \$15 million for a
22 basket of goodies. One of those goodies, but not the only
23 goody, was another \$10 million called the (indiscernible)
24 policy, another \$10 million of D&O coverage. So, ten plus
25 ten is 20. That wasn't the only thing that the company

1 obtained in exchange for that.

2 Q Do you recall what else the company obtained?

3 A I do. The company also obtained six-year tail coverage
4 under both policies. So, the original \$10 million policy
5 and (indiscernible) purchased and I think, though I'm not a
6 hundred percent sure, but I don't think they had the
7 contractual right -- they had to negotiate with the
8 insurance carrier to obtain six years of tail coverage under
9 both policies, and there was money associated obtaining that
10 benefit.

11 And then the other was the original policy was as I
12 understand it excluded coverage for customer and regulatory
13 claims. Those exclusions were removed from both the
14 original policies and they did not apply to the new policy.
15 And so, those were all the things that happened at once for
16 a sum of fifteen-point-something-million dollars.

17 Q Despite that, it sounds like from your testimony there
18 was a basket, to use your phrase, of goodies, meaning
19 benefits to the debtor. Is that what you mean when you say
20 that?

21 A Yes.

22 Q Okay. Despite that, did you have a reaction given your
23 experience as a restructuring professional as to whether the
24 transfers to the insurance company on the eve of filing
25 might be avoidable for the benefit of the estate?

1 A I think one of the things that stuck out to us was that
2 it appeared that despite the way I just described it, it
3 appeared in the paperwork as it was reported to us that the
4 \$10 million new (indiscernible) policy cost the company \$10
5 million. Whether that's the (indiscernible) described or
6 not, (indiscernible) of the greater sum that was paid for
7 the basket of goodies in some sense I think the insurance
8 company (indiscernible) sort of the thought behind it is \$10
9 million of new coverage for \$10 million. I don't know
10 whether that's accurate or not. But when we observed that,
11 our reaction to that was, huh, that seems unusual and
12 (indiscernible) there could be a fraudulent conveyance claim
13 against the insurance company for whether or not they
14 provided the estate with (indiscernible) in exchange for the
15 \$10 million that they received.

16 Q Did you do anything with that thought, that it may be
17 an avoidable transaction?

18 A We did. As part of the overall settlement, we
19 preserved that cause of action, did not release
20 (indiscernible) and that cause of action, along with the
21 causes of action against the two individuals, are being
22 transferred to (indiscernible).

23 Q Okay. Do you have a view as to whether the settlement
24 reached with Mr. Ehrlich and Mr. Psaropoulos is in the best
25 interest of the estate?

1 A I do.

2 Q Why do you think that it is?

3 A Well, we conducted a pretty thorough investigation. We
4 looked at the company's risk management practices around --
5 particularly around (indiscernible). We concluded that
6 there were risk management practices in place. They were
7 not perfect. They were a work in progress at that phase and
8 time. But there was some level of diligence done. There
9 were decisions made for reasons that made sense. There was
10 an absence, a notable absence of any indicia of self-
11 dealing, improper motives. There was nothing in it for
12 these executives other than their genuine belief that making
13 those loans was good for the company. They were investors.
14 They had currency on the platform. Didn't find any of the
15 red flags that you sometimes find in other types of
16 situations. And so, whether or not there were breach of
17 duty of care claims based on criticism of the depth and the
18 detail around the risk management practices and how they
19 went into business with (indiscernible). We thought there
20 were some good facts and there were some bad facts. And
21 under the law as I remember it and as I have certainly been
22 reeducated by counsel, really you would have to find for
23 there to be a breach in duty of care. That's a gross
24 negligence standard. You would have to find that they were
25 grossly negligent (indiscernible), grossly negligent in

1 probably going about doing the things that I just talked
2 about and making decisions (indiscernible).

3 And while we thought that there were colorable claims,
4 we thought that there were also pretty colorable
5 counterpoints. So, when we coupled that with the fact that
6 you can't get water from a stone. If you see somebody
7 (indiscernible) anybody can sue anybody for anything. They
8 not only might not win, but they're not going to have
9 anything to give you if you do win. And we looked at their
10 financial assets, and we thought that (indiscernible) in our
11 business judgment and in the best interest of the estate
12 would be negotiate the best deal that we could from them,
13 obtain some positive value, and really maintain the source
14 of recovery that is (indiscernible), which is the \$20
15 million (indiscernible). And so, we thought that taking all
16 that into account, that that was extremely beneficial for
17 the estate and we were -- we felt good about our business
18 judgement. Not that we relied on the judgment of others,
19 but it supported our belief that that was a good settlement
20 under the circumstances that the creditor's committee
21 reached the same conclusion.

22 MR. KIRPALANI: I have nothing further, Your
23 Honor, for the witness.

24 THE COURT: Okay. Anybody in the courtroom who
25 now wishes to question the witness? Yes?

1 UNIDENTIFIED SPEAKER: Your Honor, I have only one
2 question.

3 THE COURT: You have one behind you who I
4 acknowledged first there.

5 MS. COWEN: I am Stacey Cowen. I am a creditor.
6 (indiscernible). I am an investor. I have had 177,000
7 shares of Voyager that I bought from 2020 until May of 2022
8 that at high was three-and-a-half million. Now it's zero.
9 And I -- you know, followed investor relations, press
10 releases, interviewed Mr. Ehrlich, had correspondence with
11 Mr. Ehrlich in text about the company. And I actually had a
12 question. I guess when was he paid off that bonus and when
13 was that additional insurance taken out?

14 CROSS-EXAMINATION OF TIMOTHY POHL

15 BY MS. COWEN:

16 A So, I think I can refresh my recollection and give you
17 exact dates if you want. But I believe that the bonus was
18 in February of 2022, before there was any lending made to
19 (indiscernible), by the way.

20 Q Okay.

21 A And then the insurance policy was procured in July of
22 2022, right before the filing. The additional insurance.

23 Q Okay. And (indiscernible) correspondence. I didn't
24 say what the texts were, but (indiscernible). I said, "Is
25 Voyager in trouble? I have almost all my savings and my

1 kids' wrapped up in your company. And since the equity
2 (indiscernible) customer assets".

3 He writes back, "Who said we were in trouble?"

4 I said, "It's just the stock has been down so much and
5 that's been blocked by Celsius while that stuff is going
6 on".

7 He said, "Every fin-tech company that's public is
8 getting slaughtered in the market".

9 And I said, "Totally aware. Just wanted to make sure,
10 again. I have my entire retirement savings gone at this
11 point".

12 And then June 22nd, when the (indiscernible) Capital
13 news came out, Voyager Digital (indiscernible) the article.
14 (indiscernible). He writes, "Nope".

15 I say, "Great. Thanks". And that's June 22nd, right
16 before the bankruptcy was filed.

17 Not just me. Other equity investors relied on
18 (indiscernible) about (indiscernible) and adding stocks to
19 the platform about the (indiscernible) to uplift in terms of
20 price. You know, so it wasn't just (indiscernible) Capital
21 (indiscernible) falling it was, you know, additional
22 information that was being transmitted by the CEO saying
23 that the company was healthy. And that's why I held on.
24 So, I think there is some personal liability for the
25 executives of the company.

1 And also, I have a question about the equity, whether
2 the intercompany claims that are in question at Topco, if
3 there's going to be an independent committee that is going
4 to be appointed to oversee that. It's not related to either
5 management, the group here. There's going to be someone
6 independent to look at these intercompany claims and see if
7 the equity holders can get an answer --

8 THE COURT: Okay. That's quite a mouthful, and
9 it's -- a lot of it's not really a question, I guess.

10 MS. COWEN: Well, intercompany I guess
11 (indiscernible).

12 THE COURT: It's okay.

13 MR. SLADE: Your Honor, we would be happy to
14 answer her questions.

15 THE COURT: Yeah. As I understand it, the first
16 part of your question relates to your personal
17 communications and communications Mr. Ehrlich may have had
18 with others that you think were misleading. And that
19 perhaps gave rise to liability to you or to other investors.
20 It's important, and I think there's been a lot of confusion
21 about this, none of those claims are affected by this plan.
22 Your claims against the Debtor had to be asserted in a proof
23 of claim, but if you have claims against individuals who
24 allegedly committed fraud, the only way they would be
25 affected is if you voluntarily executed the opt-in form to

1 agree to give those releases. Otherwise -- and somebody
2 correct me on the Debtor's side if I'm misstating this --
3 otherwise, your claims against him if you have claims
4 against him are totally unaffected. Totally left in place.
5 Okay? I did want to make sure you understand that.

6 MR. SLADE: That's correct, Your Honor. Unless
7 they (indiscernible).

8 THE COURT: Right.

9 MS. COWEN: That's assuming I have money to pay
10 legal fees if (indiscernible).

11 THE COURT: I understand. One of the unfortunate
12 things as a bankruptcy judge is I am accustomed to seeing
13 people who have suffered financial losses. Sometimes people
14 who can endure the, and sometimes not. And we can't always
15 do anything about it. And I do sympathize with your
16 situation, I really do. But if you have a claim, I can at
17 least assure you that that hasn't been extinguished by the
18 bankruptcy. The stock may turn out to be worthless.
19 There's nothing I can do to resurrect that.

20 MS. COWEN: Will there be that independent
21 committee for the intercompany claims that are --

22 THE COURT: On the intercompany, this may not be
23 the witness, but let's let the Debtor answer your question.

24 MR. SLADE: Yes. We could direct you to the
25 lawyers who are representing the Topco individually after

1 this hearing.

2 MS. COWEN: Okay. It would be an independent, not
3 part of the committee --

4 MR. SLADE: There is a different independent
5 director at the Topco who is not Mr. Pohl. And he has
6 separate counsel.

7 THE COURT: So, in other words, the intercompany
8 issues will be debated. They will be followed by an
9 independent director at Topco. And I believe, if I read
10 correctly the latest amended version of the plan that was
11 filed, there is an agreement that even if there's a
12 settlement of intercompany issues, if it's over a certain
13 dollar amount, that it has to be presented to me for
14 approval, at which time if Topco doesn't like it, it can
15 object.

16 MS. COWEN: And would the equity be subordinated
17 to claims let's say of all the estates, \$60 billion or
18 whatever it ends up being, by all the estates that are
19 claiming --

20 THE COURT: I am afraid that would be the case.
21 Because their claims, whether subordinated or not -- first
22 of all, to the extent that they have claims against the
23 subsidiaries, they would have to be paid before any of the
24 subsidiaries could pay any money up to their equity owners.
25 So, any claims against opco and holdco would have to be paid

1 before any of their money went up to, by way of dividend
2 anyway, up to Topco. Now, Topco may have, if it wins on the
3 intercompany claims, they just have direct recoveries. And
4 then if the regulators have valid claims against Topco,
5 those would have to be paid before equity could be paid
6 because creditor claims have to come first. I don't know if
7 they have -- one way or the other if they have any claims
8 against Topco, to tell you the truth.

9 MS. COWEN: I have another question. Market
10 Rebellion, did they receive any payments or ability to
11 exercise any options right before the bankruptcy? Were they
12 able to get any money out of their deal with them? Market
13 Rebellion is the company that is going to list stocks on
14 their platform in addition to crypto and they never
15 delivered on that, and they said starting at the beginning
16 of 2022 that was going to happen. Is there any exercising
17 of any (indiscernible) options, anything like that with
18 Market Rebellion before the bankruptcy was filed that could
19 be clawed back?

20 MR. SLADE: I believe the answer is no, but I
21 would be happy to talk to you about that after the hearing.

22 THE COURT: Okay.

23 MS. COWEN: (indiscernible) others. And my last
24 question was Particle Foundation. All of the executives of
25 Voyager are also on Particle Foundation, which bought a 12-

1 and-a-half-million-dollar (indiscernible) before bankruptcy
2 as well that they then sold another 12-and-a-half-million-
3 dollars in the form of NFTs. All of the executives are
4 still part of Particle Foundation. Is there any ability to
5 claw back any of that in terms of either the artwork,
6 priceless artwork I see, Love Is In The Air, or the NFT sale
7 commissions that (indiscernible), Steve Ehrlich, all those
8 people that are on the board of Particle Foundation
9 Collective. It's a non-profit.

10 MR. SLADE: Well, I'm not sure this is going to
11 answer your question, but I can tell you that we looked at
12 Mr. Ehrlich's assets, what he owns that was available. And
13 none of that was there.

14 MS. COWEN: The assets you looked at, were they
15 U.S. bank statements, were they blockchain? Because
16 obviously someone could (indiscernible) blockchain and
17 (indiscernible) that's not in a U.S. bank statement.

18 MR. SLADE: All I can say is that he testified
19 under oath essentially that what we saw was all that he had.

20 MS. COWEN: What happened to his \$30 million of
21 stock that he sold less than a year ago?

22 MR. SLADE: Most of it was not his. Family,
23 friends. Not his.

24 MS. COWEN: Okay. But Madoff, they clawed back
25 from family, friends. I mean, that's a way to...

1 MR. SLADE: We looked at whether or not as a legal
2 matter there was any basis to, and there wasn't any.

3 MS. COWEN: Okay. And May 12th when he texted me
4 about -- you know, I said all my assets are tied up, you
5 know, is there anything to worry about. He said no. I
6 think within a day of that, Francine Ehrlich took out a home
7 equity loan and bought a \$2.3 million property in Nashville
8 in her name. It's a bankruptcy homestead protected state.
9 I don't know if you looked into that.

10 MR. SLADE: We know she had some of her own
11 assets, yes. And we asked whether or not there was any
12 legal way to pull those into his -- you know, for settlement
13 purposes or (indiscernible) settlement if that would be
14 available to (indiscernible) and the legal answer was no.

15 MS. COWEN: Okay. Even though the timing happened
16 to correspond with the bankruptcy right after that?

17 MR. SLADE: (indiscernible).

18 MS. COWEN: Okay. I would be curious about Market
19 Rebellion, because (indiscernible). So, that's all. Thank
20 you.

21 THE COURT: All right. You're very welcome. Yes.

22 MS. CALANDRA: Thank you, Your Honor. John
23 Calandra from McDermott Will & Emery on behalf of the
24 Committee, Your Honor.

25 CROSS-EXAMINATION OF TIMOTHY POHL

1 BY MR. CALANDRA:

2 Q Mr. Pohl, I just have one question. It's been a long
3 day. I just wanted to clarify something you said about the
4 scope of the investigation. I think -- I believe you said
5 that you investigated the estate's claims that it may have,
6 but I wanted to be clear that that was against only the
7 insiders, not against anyone and everyone.

8 A Correct.

9 MR. CALANDRA: No further questions, Your Honor.

10 THE COURT: Who do you mean by insiders?

11 THE WITNESS: Officers and directors.

12 THE COURT: Okay.

13 THE WITNESS: I'm thinking to myself whether there
14 were (indiscernible), but I can't think of any.

15 THE COURT: All right. Anybody else in the
16 courtroom who wants to question the witness?

17 Is there anybody on the telephone --

18 UNIDENTIFIED SPEAKER: Your Honor, I am a pro se
19 creditor.

20 THE COURT: Yes. What is your name?

21 UNIDENTIFIED SPEAKER: My name is (indiscernible).
22 I had a couple of questions for the witness regarding Mr.
23 Psaropoulos.

24 THE COURT: Okay, please proceed.

25 BY UNIDENTIFIED SPEAKER:

1 Q I heard in your earlier testimony that half of his
2 claim on Voyager he was contributing is worth roughly
3 \$60,000. I also noticed in the filing that his net worth is
4 redacted. Just for the creditors, could we know how much
5 money is there, so we know there's nothing to pursue or give
6 us a ballpark figure for that net worth for Mr. Psaropoulos?

7 MR. KIRPALANI: I would just caution the witness
8 that we do have a confidentiality obligation with respect to
9 Mr. Psaropoulos and his counsel. You can answer the
10 question with that instruction.

11 BY UNIDENTIFIED SPEAKER:

12 A Sure. I'll try to follow that. He does have some
13 other assets. He has a house. He has some money in a 401K
14 plan. And he has some money in a bank account. They are
15 not what I would describe as significant amounts of money
16 (indiscernible). And certainly not anywhere close to what
17 is available under the D&O policies. Not remotely close.
18 And so, when we thought about settling -- and nobody settles
19 by giving up every single penny that they have -- we did not
20 -- he had one house. I was about to say we didn't -- we
21 thought it was not -- we would never get settlement offer
22 going after a person's house. If a person had owned 14
23 houses, that would be different. But he owned one house,
24 owns one house.

25 So, we looked at his house, we looked at his value.

1 There was nothing significant there. We looked at how much
2 he has in his bank accounts. There was nothing significant
3 there. He has a retirement account that's relatively
4 modest. And so, there wasn't a lot to get. And so, if you
5 didn't settle and you sued him and you won, you would be
6 depleting (indiscernible) entitled to have the D&O policy
7 advance his costs to defend himself. It eats into the \$20
8 million policy. He has the right to be indemnified if you
9 settle the one, you have that claim against the company.
10 And when we put all of that together, we thought let's
11 preserve the D&O policy assets, let's get the dollars that
12 he can afford to pay without it being in his interest to
13 fight it. And that's how we thought about the settlement
14 with -- really with both of them. But they had different
15 financial profiles, so we didn't reach the same outcome.

16 Q Thank you. No further questions.

17 THE COURT: Okay. Anybody else on the telephone
18 who has questions for Mr. Pohl?

19 MR. HENDERSHOTT: Yes, Your Honor. Thank you.
20 It's Tracy Hendershott, pro se creditor.

21 THE COURT: Okay. Go ahead, Mr. Hendershott.

22 MR. HENDERSHOTT: Thank you, sir.

23 CROSS-EXAMINATION OF TIMOTHY POHL

24 BY MR. HENDERSHOTT:

25 Q Mr. Pohl, I appreciate your time. I especially

1 appreciate you and counsel from Quinn Emanuel of starting
2 off with the nice summary. That was very helpful.

3 Your focus was exclusively -- I believe you stated with
4 (indiscernible) activity and series of events leading up to
5 that loan. Did I hear that correctly?

6 A No, not quite. It wasn't our exclusive focus. I think
7 when this case started, everybody understood that that was a
8 big part of what had gone wrong here. And so, that was at
9 the top of everybody's mind that ought to be looked --

10 Q Okay. A primary focus. So, what I'm asking is not
11 necessarily whether you have a lot of details of how that
12 whole sequence of events went. I'm curious if you are aware
13 of whether the executives of voyager were personally aware
14 of the collapse of 3AC specifically if they were notified by
15 3AC that the founders were on the run, nonresponsive, and
16 were recommended to immediately call back all of the loans.

17 A Yes, I am. In fact, we spent a lot of time staring at
18 the timeline of the events, culminating in a -- I am doing
19 this from memory without refreshing my recollection. I
20 think that was in mid-June. It was around the 13th or 14th
21 or 12th, one of those dates where they were told for the
22 first time that they've got to try to recall the loans. And
23 that it was because they were on the run, the 3AC founders.

24 Q So, in the filing of the investigation that the UCC
25 counsel performed, it does state June 14th. So, that

1 recollects with your memory as well it sounds like.

2 A Good. I'm glad to hear that.

3 Q And at that -- or also in the filing from the UCC
4 counsel, they state Mr. Psaropoulos, Mr. Ehrlich were in
5 direct communication with 3AC. That's when they were told
6 the founders are on the run. I think in quotes here it says
7 they are (indiscernible) and the suggestion is that you
8 recall of its loans immediately. And the testimony in your
9 investigation (indiscernible) states Mr. Psaropoulos and Mr.
10 Ehrlich (indiscernible) to that knowledge. Does that
11 correlate with your memory?

12 A It does.

13 Q Great. Also, did you look at any of the communications
14 that was released? I know we just heard the other creditors
15 saying how they have materially false statements coming from
16 their executives. Was that part of your investigation on
17 the larger scale specifically with press releases
18 (indiscernible) on a large-scale basis?

19 A Well, you broke up there a little bit, so I missed some
20 of those words, but I think I get the gist, which is -- and
21 again, so we had counsel review -- ask for and then review -
22 - as I said, there were 30 information requests. I'm sure
23 it included all communications that were relevant to this.
24 There were, I don't know about, 10,000, 11,000 documents,
25 40,000 pages that were reviewed, something like that. You

1 know, Ms. Frizzley and myself didn't manually review those
2 ourselves. We had counsel review that and write a report
3 for us and flag issues for us that they thought were worth
4 flagging. I can't -- (indiscernible) specific communication
5 one by one that I can tell you for sure was looked at.

6 Q Would you say that you looked at all of the press
7 releases which, you know, very significant loss distribution
8 intended to (indiscernible) customers?

9 A Yes.

10 Q So, do you recall that there was a press release on the
11 very same day that the executives of Voyager found out that
12 basically there was (indiscernible) fifty percent of their
13 assets under management at the time, by being directly
14 (indiscernible) by 3AC, that the very same day they released
15 the press release -- and I can I quote this to you, or do
16 you recall it?

17 A You can quote it to me.

18 Q So, one sentence on this press release specifically
19 attributed to Mr. Ehrlich, chief executive officer and
20 founder. And I quote, "The company is well-capitalized and
21 in a good position to weather this market cycle and protect
22 customer assets."

23 On the very same day, they were notified by 3AC
24 basically that they were headed towards bankruptcy. Do you
25 recall investigating that press release as part of the

1 larger investigation?

2 A I recall knowing that there was (indiscernible).

3 Q And so, release of that information on the exact same
4 day that they notified that we're headed towards the path of
5 bankruptcy, would you quantify that as materially false?

6 MR. KIRPALANI: I'm going to object, Your Honor.
7 It calls for a legal conclusion.

8 THE COURT: that's true. It does. Sustained.

9 MR. HENDERSHOTT: We can't get the opinion of the
10 lead director for the investigation what their consideration
11 of facts? He talked earlier that he didn't feel that the
12 actions (indiscernible), so I think it's relevant to
13 understand his --

14 THE COURT: Just let me be clear. The exact words
15 you used called for a legal opinion. You can ask him if he
16 considered that it gave rise to any claims on behalf of the
17 company and if so, how he evaluated and whether he pursued
18 them.

19 BY MR. HENDERSHOTT:

20 Q Okay. So, Mr. Pohl, did this action give rise to
21 claims against the company that would warrant actions
22 (indiscernible) --

23 A I think not. Right? I think whether or not they were
24 false at the time they were made, highly unclear. Things
25 were moving very, very quickly. 3AC turned out to be a

1 gigantic fraud. Nobody understood, appreciated. And with
2 the benefit of hindsight, things were moving with extreme
3 rapidity. They were doing the best they could. Did they
4 (indiscernible) --

5 Q But just to clarify, you said you thought they were not
6 false?

7 A No. I said I don't know whether they were false at the
8 time that they were made. I don't know. But what I do know
9 is --

10 Q You thought that press release was not false?

11 A I said I don't know if it was false at the time that it
12 was made. But what I do know is that whether or not --

13 Q So, --

14 A Could I finish?

15 THE COURT: You have to let him finish, Mr.
16 Hendershott.

17 BY MR. HENDERSHOTT:

18 A What I do know is that whether or not there is an
19 estate cause of action or breach of a fiduciary duty in the
20 middle of a crisis --

21 Q Hello?

22 A Yes. Can you hear me? Okay. We're trying to, at a
23 time when we believed that things were going to be
24 relatively controllable. Turned out to be wrong about that;
25 doesn't mean he didn't believe it. You know, did that rise

1 to gross negligence or bad faith, sufficient to give rise to
2 an estate cause of action for a breach of his fiduciary
3 duties? We didn't think so. A claim that you could
4 prosecute and win? We didn't think so.

5 THE COURT: Are you still there, Mr. Hendershott?

6 MR. JONES: Your Honor, I think Tracy fell off the
7 line.

8 THE COURT: What happened?

9 MR. JONES: Seth Jones here. Tracy got
10 disconnected somehow, I think, but can I ask a few questions
11 until he gets back?

12 THE COURT: Sure.

13 CROSS-EXAMINATION OF TIMOTHY POHL

14 BY MR. JONES:

15 Q I have a question. Is taking out a \$10 million
16 insurance policy the day before filing for bankruptcy
17 standard practice?

18 A Actually, it is. It depends on, you know, whether it's
19 standard practice or not -- let me answer it this way, every
20 case is different. Depending on what the current company's
21 state of their D&O insurance is, it is not at all uncommon
22 headed into a restructuring to need to bulk up -- sometimes
23 that means obtaining new insurance, sometimes it means
24 adding to insurance that you have, but to end up -- and it
25 costs money to do this if you need to do it -- to have a

1 complement of insurance coverage for your officers and
2 directors who you need to be willing to stay with the
3 company in the bankruptcy proceeding, as well as to attract
4 independent directors, such as myself, to be willing to get
5 involved in a distressed situation, so it is very common to
6 obtain policies.

7 Q Okay. But as the judge has said before, it was
8 basically an escrow of this fee because it's a \$10 million
9 policy just to pay out \$10 million. So, where's the benefit
10 for the creditors?

11 A I think what you're saying -- again, it was hard to
12 hear -- is that there seems something odd on the surface
13 about paying \$10 million for \$10 million of coverage. We
14 agree with that if that's the right way to describe it. We
15 agree with that, which is why we preserved the ability to go
16 after the insurance company for doing -- to see if we can
17 recover, the estate can recover the \$10 million that was
18 paid from the party that got the money, the insurance
19 company.

20 Whether there's a good claim there or not, it
21 seemed to us it was a good enough potential --

22 Q But that's not ethical to do what they did. It's for a
23 \$10 million payout, but \$10 million of creditor money on the
24 board; is that not ethical?

25 A Well, I think they didn't only do that. So, what I

1 said before was that they did a number of things with
2 respect to their insurance; that was only a part of the
3 package. And the officers and directors were doing that on
4 the advice of counsel and they're entitled to rely on that,
5 so they did. It's not uncommon. It was expensive.

6 And again, whether or not if you thought an
7 officer or director did something wrong by approving it,
8 they still -- I'll use the same phrase again -- you still
9 can't get blood from a stone. They did not have the
10 financial wherewithal personally to pay a significant
11 judgment, so we preserved the ability to go after for these
12 things the party that does have the financial wherewithal to
13 pay a significant judgment, which is the insurance
14 companies, including with respect to that \$10 million that
15 was paid.

16 Q What about loaning out 208 million three days before
17 the platform froze while the platform had a cap on
18 withdrawal limits; is that standard practice?

19 A I don't know what you're talking about.

20 Q The Alameda loan, 50,000 Ethereum and 6500 Bitcoin was
21 loaned out on June 27 and the 28th to Alameda and the
22 platform froze on July 1st. And obviously we had a big hole
23 already, so they give out 208 million just to freeze the
24 platform on July 1st.

25 A Well, if you're asking me about loans that they made to

1 Alameda in the month of June, Alameda at that time was
2 certainly not believed to be -- it wasn't Three Arrows. It
3 was not believed to have any financial distress. It was
4 viewed everywhere in the marketplace as an excellent
5 counterparty. Everybody wanted to do business with Alameda
6 and the company, Voyager, made money for its customers by
7 making its loans; it was an integral part of its business.

8 Q I understand, but --

9 A So that was -- look, in hindsight, the fact that
10 Alameda turned out to be Alameda, you know, hindsight is
11 20/20, nobody at the time that those loans were made thought
12 that there was anything wrong with making money and being
13 paid -- by being paid for loaning assets to Alameda. That
14 was not the --

15 Q Is that the right thing to do when you have a goal, you
16 know, so you give out 208 million and then you close down
17 the shop three days later. That money could have gone to
18 other customers or made the hole smaller in hindsight.
19 Obviously, you have issues. Why are you lending out \$208
20 million after you just lost 650 million on an
21 uncollateralized loan? Is that not lack of due diligence or
22 what, negligence, anything?

23 A Well, it wasn't a lack of due diligence with respect to
24 the counterparty in that transaction.

25 Q If they would have held onto that money, maybe they

1 could keep going longer, right, the business?

2 A Well, again, if Alameda was a creditworthy
3 counterparty, then they were obligated to pay you back that
4 money with interest. That was a business to pay --

5 Q Yeah, and that would have paid back --

6 A That was a core part of the business that Voyager was
7 in. So, if your questioning is suggesting that once the
8 Three Arrows situation unfolded that the only thing Voyager
9 should have done was shut down its business and if they did
10 anything short of that, they were somehow doing the wrong
11 thing, I guess I would have to say we wouldn't agree with
12 that.

13 Q I mean, but they knew how much they were going through.
14 They blew through that 35 million that quickly, right, so
15 what happened in those three days; did they have a bad bank
16 run or what?

17 MR. KIRPALANI: Objection, Your Honor. I think
18 this question has been asked and answered.

19 THE COURT: I'll let him go just this one.

20 THE WITNESS: I'm not sure what the question is.

21 THE COURT: I'm not sure either. What exactly are
22 you asking, Mr. Jones? There was a loan you say on the
23 27th.

24 MR. JONES: It's a --

25 THE COURT: A loan is not a gift, right? A loan

1 is not a gift. A loan --

2 MR. JONES: Right, right, right.

3 THE COURT: So, what issue --

4 MR. JONES: They already knew that -- they knew
5 they had a \$650 million hole on June 18th.

6 THE COURT: Right.

7 MR. JONES: So, they had a big hole and they
8 decided, oh, let's keep lending out money with an unstable
9 market, maybe they would have helped the business to go a
10 little longer instead of giving away \$208 million to FTX.

11 THE COURT: Mr. Pohl, did you examine that
12 transaction and did you and the special committee reach any
13 conclusions about it, whether the company had any claims
14 based on?

15 THE WITNESS: We looked at all of the transactions
16 and we did not believe that there were any viable claims
17 with respect to that transaction.

18 THE COURT: Why in respect to this -- was the loan
19 repaid? Is this the loan that's the subject of the
20 preference action now?

21 THE WITNESS: This loan ultimately, in fact, was
22 repaid, number one. And again, number two, at that time,
23 even after we filed for bankruptcy, there was no indication
24 at that time that Alameda and FTX were anything other than
25 completely credible. In fact, that was so much the case,

1 that we entered into a sales transaction with them, which
2 was the plan that was originally filed. The whole world was
3 defrauded by FTX and Alameda blowing up and nobody
4 understood it and I think people still don't understand it.

5 But certainly, in June of 2022, trying to stay in
6 business in the business that you were in, making a loan to
7 what everybody believed was a completely credible as a
8 party. And then, in fact, actually having loan repaid, in
9 fact, and you made interest in the meantime certainly didn't
10 suggest to us that there was anything inappropriate about
11 that transaction.

12 THE COURT: Okay.

13 BY MR. JONES:

14 Q Steve Ehrlich said that pre-bankruptcy, they had one
15 offer proposal, but it was too low of a -- a lowball offer
16 to swallow, so to speak. Can you speak on that one offer?

17 A I think what -- again, our job was to look to see if we
18 thought there were estate causes of action against insiders.
19 The observation that you just made, which we're aware of, is
20 consistent with appreciating that there were no improper
21 motives here; they were on the same side. They believed
22 that the business was able to be rehabilitated and they did
23 not have contrary interests that would give rise to sort of,
24 you know, violation of their duty of loyalty, which is in
25 legal terms, what you're sort of getting at; it was an

1 indicia of just the opposite. They were believers that the
2 company was healthy and had value, so much so and they were
3 stockholders, that they did not pursue a transaction that
4 I'm sure today everybody wishes had happened. It wasn't
5 really a transaction; it was an offer, but you get my point.

6 Q Can you tell me how fast they blew through that \$35
7 million from FTX?

8 A I don't recall, as I sit here, when they got it back.
9 I know that when we filed the case, there was discussion
10 about that was the plan was to go get those monies back and
11 eventually they were gotten back.

12 Q I mean FTX gave it to Voyager. Now it's subordinated,
13 right, the plan?

14 MR. KIRPALANI: I'm sorry. Is the question --
15 just one clarification. Is the question asking about money
16 that FTX loaned to Voyager or that assets that Voyager
17 loaned to FTX?

18 MR. JONES: FTX gave it to Voyager.

19 MR. KIRPALANI: And what's the question with
20 respect to the \$75 million?

21 BY MR. JONES:

22 Q 75 million. I believe they're, what, allowed to claim
23 that once a month; was it 500 million originally. FTX told
24 them you can only send, what, 75 million a month?

25 A Well, I'm trying if I'm following your question. We

1 were certainly aware that FTX had agreed to loan money to
2 Voyager in installments. I don't remember as I sit here
3 today what the rules were. They couldn't borrow it all at
4 once. They borrowed what they were allowed to borrow, which
5 was the initial 75 million, and then I don't think they were
6 ever allowed under the terms of that loan to borrow anymore,
7 but that's what they borrowed.

8 MR. JONES: That's all I have. Thank you.

9 THE COURT: Mr. Hendershott, are you back on the
10 line?

11 MR. HENDERSHOTT: I am, sir, thank you. I've been
12 having a little bit of technical challenges. Appreciate
13 (sound drops). Hello?

14 THE COURT: Yes, we're here. You may proceed.
15 You may ask your questions.

16 MR. HENDERSHOTT: All right, thank you.

17 CROSS-EXAMINATION OF TIMOTHY POHL (CONT.)

18 BY MR. HENDERSHOTT:

19 Q So, thank you, Mr. Pohl, for letting me jump back in
20 here. Before I got disconnected, we were talking about the
21 press release with the statement that the company is well
22 capitalized in a good position to weather the market cycle
23 and I couldn't understand if you were saying that that was
24 false or not.

25 A I don't know whether it was false or not.

1 Q You do not.

2 A No. At the time the statement was made, I don't really
3 know if it was false. I don't know what -- more
4 importantly, I don't know whether he thought it was false.

5 Q Did we not just clarify on the same day that 3AC
6 notified them that their founders were on the run and it's
7 really bad and we have to recall our loans? I'm struggling
8 to understand the dichotomy of the facts here. You're
9 agreeing that both are coming to a conclusion that you think
10 that it might be truthful.

11 A All I'm saying is the loans to 3AC were not the only
12 loans that they had. They had a credit facility with
13 Alameda. They have a lot of other -- that was one part of
14 their business, it was significant, but what was happening
15 with 3AC was evolving in real time. Nobody completely
16 understood it other than with the benefit of hindsight, and
17 he was I think in good faith trying to keep things as calm
18 as possible and figure out what to do next, that's all.

19 Q So \$1 billion hole from 3AC is you feel there was other
20 root causes for the bankruptcy?

21 MR. KIRPALANI: Objection. Lacks foundation with
22 that \$1 billion reference.

23 THE COURT: Not really. I think I can't count the
24 number of papers I've read about this \$1 billion hole.

25 THE WITNESS: I think we all think that the loss

1 of \$650 million to 3AC was the precipitating event for the
2 bankruptcy, but it precipitated people wanting to withdraw,
3 they had to raise the gets. It set off a chain reaction
4 that ultimately led to the bankruptcy, I think that's right.

5 BY MR. HENDERSHOTT:

6 Q Okay. (Indiscernible) thank you for the clarification.
7 So, at one point did the executives at Voyager know
8 definitively they were filing bankruptcy?

9 A You know, I'm not a hundred percent sure. We were
10 appointed on the eve of the filing or the day before the
11 filing, so certainly by then they knew because we were
12 appointed as part of the filing process. How many days
13 before that, it was a foregone conclusion; I could only
14 speculate.

15 Q You can only speculate. There was no review of
16 internal communications? You know, I would assume that that
17 was a critical element you identify as part of a thorough
18 investigation.

19 A I mean, not really. The exact date that they --

20 THE COURT: Mr. Hendershott, let me just interrupt
21 to explain something here. What the witness was charged
22 with doing was figuring out if the estate -- in other words,
23 Voyager itself -- had claims to pursue against officers and
24 directors.

25 Your claims are all about whether the officers and

1 directors issues public statements that were misleading to
2 customers or to investors, in which case the injured parties
3 would have been the customers or investors, not Voyager
4 itself, in which case it wouldn't be a claim belonging to
5 the estate; it would be a claim belonging to the account
6 holders and the investors.

7 So, when you're asking this witness whether he
8 thought these events, you know, were problems and the
9 witness is trying to I think tell you he's trying to
10 evaluate whether the estate had anything to pursue on those
11 points. Do you understand the difference there?

12 MR. HENDERSHOTT: I do, but I'm still a little
13 confused. Would you be the one that determines whether it's
14 gross mismanagement, fraud, dishonesty, because the witness
15 is actually throwing out legal terms and I thought that that
16 was the point of his investigation is to determine causes of
17 action that results in potential claw backs or penalties.

18 I'm confused, Your Honor. I'm not sure who
19 determines whether these actions are material faults,
20 whether there is harm, whether there's dishonesty. Is that
21 you, sir, Judge?

22 THE COURT: Well, let me just -- I only rule on
23 lawsuits and motions that are in front of me. I don't have
24 any free reigning authority to just make rulings on things
25 that aren't actually brought properly in front of me.

1 But as to whether false statements were made about
2 Voyager's financial condition, it's hard for me to see how
3 that would give rise to a claim by Voyager against its own
4 officers because Voyager wouldn't be the injured party;
5 arguably, it would be the perpetrator through its officers.

6 So, what kinds of claims Voyager might have is if
7 there were things that were done recklessly, carelessly, in
8 breach of fiduciary duty that injured Voyager itself, okay?

9 MR. HENDERSHOTT: Correct.

10 THE COURT: Not so much whether there was anything
11 wrong of any kind that was done with respect to any human
12 being, but rather whether Voyager, either by virtue of the
13 bankruptcy laws or other state law, had rights of its own to
14 pursue, and if it did, whether they should be pursued or
15 resolved.

16 So, claims based on misrepresentations about
17 financial statements would not ordinarily, and I doubt here,
18 be thought of as claims that belonged to Voyager to be
19 evaluated by Voyager or investigated by Voyager really.

20 If customers, creditors, you know, account holders
21 think that they were misled as to the financial statements,
22 then they may or may not have claims based on that. If they
23 wish to assert such claims against Voyager itself, it should
24 have been part of the proofs of claim. If they think they
25 have claims against the officers, I can't express any

1 opinion about whether they are or are not valid, but they
2 probably wouldn't be in my court because I'm a bankruptcy
3 court and they would probably be in some other court against
4 the other individuals.

5 There's nothing about the bankruptcy process or
6 the fact that the estate is evaluating its claims they would
7 really bring here the issue of whether somebody defrauded
8 you about the financial condition, for example. Does that
9 help?

10 MR. HENDERSHOTT: It sounds very -- you know, a
11 huge disparity of in favor of the Debtors. But, yes, thank
12 you for the clarification.

13 BY MR. HENDERSHOTT:

14 Q Okay, Mr. (indiscernible) very long. So, can you share
15 who is currently on your board and when were they appointed
16 to their board position?

17 A Well, there's more than one board, right. At the
18 Voyager LLC, which is the board that I'm on which is the
19 operating company, it's myself, it is Jill Frizzley, and I
20 think we're the only -- oh, and Steve Ehrlich I think is
21 also a board member, but he's not a member of the special
22 committee, so there are three board members at Voyager LLC,
23 the operating company.

24 Q Are you the chairman of that board?

25 A I'm not even sure we have a chairman. It's really not

1 a relevant concept. We have three members of the board: two
2 of us are independent and we're newly appointed and we're
3 two of the three members of that board.

4 Q And is this standard procedure that the person that's
5 being investigated for their actions would actually be the
6 board member that you are a member of with no leadership?

7 A Well, all powers to investigate and dispose of, through
8 settlement or release or otherwise, of Voyager LLC causes of
9 action against any officer or director, including Mr.
10 Ehrlich, would delegate it to the special committee that he
11 is not on. So, he doesn't have any authority over, even as
12 a board member, over the subject matter that we're talking
13 about, not even the little authority that he would have if
14 it wasn't delegated and the two of us as independents could
15 outvote him two to one on any topic. So, he doesn't have
16 any authority as a board member over the subject matter that
17 we're discussing.

18 Q Interesting, thank you. So, who appointed you to this
19 special committee and this board?

20 A I think Miss Frizzley and myself were recommended to
21 the full board of the parent company by Kirkland & Ellis.
22 We were interviewed by -- I can't say the whole parent
23 company board, but I remember being interviewed by some
24 people. And then we were -- and I don't think we were the
25 only people who were interviewed, not that I know that for

1 sure but that's not common -- and then we were selected.

2 So, the board of the parent company advised by
3 recommendations from their advisors recommended us.

4 Q And that would be the (indiscernible) of the holding
5 company; is that correct?

6 A I think it was the board of the holding company, that's
7 right, and I couldn't remember, unless my recollection was
8 refreshed, the name of every member of that board.

9 Q And who's the chairman of the holding company?

10 A I want to say I think it's Mr. Ehrlich, but I'm not 100
11 percent sure. It's really, the reason I'm not 100 percent
12 sure is that it's really not relevant to what we did.

13 Q And relevant to me, sir.

14 A No, I know. I'm just explaining why I don't know the
15 answer off the top of my head.

16 Q So the holding company chairman of the board created
17 and hired you specifically to investigate itself. And who
18 paid for your services, sir?

19 A Voyager LLC.

20 Q Pardon?

21 A Voyager LLC, the company of the board that I'm on.

22 Q I got it. Just for my knowledge, per chance, you know,
23 Steve Ehrlich sign your check and paid for your services?

24 A I don't think he signs my check. Actually, I don't get
25 a check; I get an ACH, so I don't know. I do know that

1 everything that we do --

2 Q So as chairman of the board -- go ahead.

3 A No, no, go ahead.

4 Q I was going to say as chairman of the board, he would
5 be -- ultimately, so he selected you. The investigation of
6 (indiscernible), he's the one that compensates you, as he
7 does all board members. Am I understanding this correct?

8 A Again --

9 MR. KIRPALANI: Objection. Mischaracterizes
10 the...

11 THE WITNESS: Yeah. The company pays us --

12 THE COURT: He can answer.

13 THE WITNESS: -- like everybody else.

14 THE COURT: The company pays. You're not saying
15 Mr. Ehrlich paid out of his own pocket, are you, Mr.
16 Hendershott?

17 MR. HENDERSHOTT: No, no. I said he has the final
18 authority to compensate all board members, including Mr.
19 Pohl, and there's no one above the board or Mr. Ehrlich as
20 chairman of the board that would compensate the board if
21 it's not a treasurer that's compensated.

22 THE COURT: He's chairman of the board; he's not
23 God.

24 MR. HENDERSHOTT: He's chairman of the board
25 that's making that decision.

1 THE COURT: You know, Mr. Hendershott, he's
2 chairman of the board; he's not God. It's not like he
3 doesn't answer to anybody else. He answers to the rest of
4 the board.

5 MR. HENDERSHOTT: And that's a good question.
6 BY MR. HENDERSHOTT:

7 Q So when I first asked you, Mr. Pohl, who are the
8 members of the board, I was referring to the holding company
9 board. Could you just -- do you know all the members of the
10 board?

11 A Not off the top of my head, no. You'd have to refresh
12 my rec- -- it's public information. You'd have to refresh
13 my recollection. I didn't report -- I don't report to the
14 holding company board, so that's not why it's not relevant
15 information to me. I don't report to them. Nothing that I
16 was tasked with doing is sort of in their purview. I don't
17 believe that they actually have the power to fire me,
18 although some days, I wish they would; that's a joke. And
19 so, that's why it's not really relevant, which is why I
20 don't remember all the names of all the people on that
21 board.

22 Q Could you just say how many members are on the holding
23 company board?

24 A Nine, is it up to? There's an independent director at
25 the holding company also. Is it eight, nine members in

1 total, something like that, seven? Again, you'd have to
2 refresh my recollection.

3 Q So, yeah, typically, it's an odd number. I'm not sure,
4 so that's why I'm asking. But I have been made aware that
5 six weeks before filing bankruptcy, there was significant
6 revision to the holding company boards by Mr. Ehrlich, the
7 chairman, replacing and appointing board members and I
8 believe even expanding it at that point. Are you aware of
9 that significant transition?

10 A No.

11 Q Okay. All right, so do you know -- and I believe you
12 already covered (indiscernible) and forgive me, I did lose
13 connection for a while. So, you said that the \$15 million,
14 there was a basket of other services that out of that
15 carveout of the \$15 million, there was a dollar-for-dollar
16 transfer 24 hours before filing bankruptcy. Then the
17 potential recovery for the creditors, there was an exclusive
18 legal defense policy for the officers. Did I hear that
19 correct?

20 A Not quite, that's not quite what I said. I think there
21 was \$15 some odd million dollars paid for a combination of
22 things. One of those things was an incremental \$10 million
23 D&O policy. Whether or not one would characterize that \$10
24 million policy as having been paid for with 10 million of
25 the \$15 million dollar for dollar is probably a matter

1 that's going to get litigated. But because it could be
2 characterized that way, we identified that there is a
3 potential fraudulent conveyance claim against the insurer
4 and we preserved it.

5 Q I'm sorry. Preserve it means what?

6 A It means that the winddown estate for the benefit of
7 creditors has the right to sue the D&O carrier who received
8 the \$10 million to return that \$10 million on -- I'll do
9 this at a super plain English level -- on the theory that
10 the company, Voyager, didn't really get any benefit from
11 paying \$10 million for a \$10 million policy. I'm not
12 opining as to whether that's a meritorious claim or not, but
13 that's the type of claim that, in some form or fashion,
14 might have merit and has not been released under the plan.

15 Q Okay. Thank you for that clarification. Speaking
16 about releases, are you part of the decision making to grant
17 releases to all of the executives, officers, and employees
18 of Voyager?

19 A No, we weren't part of the decision making. What we
20 did do was make our own business judgment as to whether
21 there was anything inappropriate about those releases. As a
22 result of all of the things that we investigated and with
23 respect to, as I've testified, with respect to Mr. Ehrlich
24 and Mr. Psaropoulos, we were not comfortable with them being
25 released from certain claims and causes of action as a

1 result of our investigation, and so we preserved those
2 claims. We preserved the ability for the winddown estate to
3 sue them for those things. We limited the recovery to the
4 D&O policy, and we settled with the two of them by having
5 them actually pay into the estate as part of the
6 (indiscernible). We did not find --

7 Q So you did make the decision on releases.

8 A We did not find that there were any other Voyager
9 company estate causes of action that had any merit against
10 other officers and directors, and so, we support the
11 releases with respect to other people. And I would note
12 that there was an important estate benefit from obtaining
13 those releases, which is that those parties have, at least
14 the senior officers, have rights to be indemnified and they
15 have rights to be reimbursed if they are sued from the D&O
16 policies which would deplete them.

17 So, the idea that we wanted to preserve the \$20
18 million potential D&O recovery for the claims that we
19 thought did have merit and not see that potential pool of
20 assets that could be settled going forward or litigated to
21 conclusion depleted by having other officers and directors
22 against whom frivolous claims could be brought have the
23 right to deplete that by having their expenses reimbursed.
24 So, in the cost-benefit analysis of the whole package
25 because we didn't think that there were good claims against

1 the other officers and directors and because we wanted to
2 preserve the maximum amount of the D&O policy to be
3 available for where the claims might be good; that's why we
4 supported them.

5 Q Okay. So going back to the \$20 million D&O policy, the
6 \$10 million was taken from the creditor recovery pool 24
7 hours before filing bankruptcy. Could you share what the
8 cost was for the previous historical \$10 million that
9 preceded that one; is that dollar for dollar? You don't
10 know.

11 A I don't know, but I doubt it.

12 Q Right. What would be standard in that (indiscernible)
13 experience?

14 A I'm not an insurance expert, but D&O insurance is
15 expensive. I don't know how long those policies were in
16 place. I think it's actually not one policy, it's a number
17 of policies, so I don't know the answer.

18 Q Would you assume that they were dollar for dollar?
19 Typically, with insurance in my experience, you get a higher
20 potential payout when the claims or the --

21 A Yes.

22 Q -- fees that you incur?

23 A I would assume that they were not dollar for dollar,
24 which is why the later one that could be construed as dollar
25 for dollar is one that raised a red flag to us, so I agree

1 with you.

2 Q So we're keeping faith in that one as a benefit, but
3 your perspective is that was not taken from the credit
4 recovery pool inappropriately?

5 A Well, I don't know, but I know that the ability to
6 probably get it back from the only person that has the
7 wherewithal to give it back has been preserved. And I also
8 know that the officers and directors who, when the board
9 approved spending the money to get that policy, they were
10 doing so on the advice of counsel.

11 Q Okay. All right, well, thank you, sir. One last
12 question. Going back to the person that's being
13 investigated being the chairman of the board that selects
14 you and ultimately is responsible for your compensation, how
15 do you as a professional -- and thank you for being one --
16 how do you as a professional distance yourself from the
17 influence of the individual that is financially supporting
18 you?

19 A I think that's a fair question honestly. I'm
20 completely distanced from it. So maybe you -- so, look,
21 I've been retired for the last three or four years, right?
22 I don't get paid a significant sum of money relative to the
23 amount of money that I made when I was working to take on
24 these assignments, not even close, number one.

25 Number two, I am independent. I don't have any

1 relationship with any of these people. I didn't work at
2 Kirkland & Ellis. I didn't work at any of these other
3 firms. None of these people used to work for me. They
4 don't put me on their boards of directors. This is the one
5 and only time I've ever been put on a board or recommended
6 to be put on a board by this law firm. I had never heard of
7 any of these people before. I had never heard of Voyager
8 before. I could barely spell Bitcoin before.

9 So, I am completely independent and it doesn't
10 really make much difference to me, you know, whether or not
11 I find that they did something wrong or whether I find that
12 they didn't do anything wrong. I don't have any skin in the
13 game. I don't have any stake. I am as independent as it --
14 I don't know how you could be more independent than that, at
15 least as I understand what the word independent means.

16 The can't fire me. I guess they could fire me,
17 but they'd probably have to deal with the judge. So once
18 this process begins and you form a special committee and you
19 retain people who are, in fact, independent and you set out
20 to have a special committee investigation, I suppose if Mr.
21 Ehrlich -- not that he would ever do this -- but if he
22 wanted to, if he didn't like where it was going and he tried
23 to fire, you know, the people who are investigating him, I
24 think that probably wouldn't come out that way; that's not
25 how it works.

1 Q So, you know, we would hope not. Absolutely, that's
2 how it works. So, is it possible that by you having, you
3 know, a reputation in this small niche market that you're
4 providing being hired by the person that's being
5 investigated and binding releases and a lot of other, you
6 know, kind of softball penalties for the investigation,
7 would that not put you in kind of a higher echelon of
8 getting hired by the next bankruptcy CEO who's being
9 investigated; would there be a financial incentive?

10 A I'm not sure I understand your question, although I'll
11 resist the temptation that I think you're insinuating
12 something.

13 Q Well, I'm asking, you know, just in this small niche
14 market that you're in of being an independent investigator,
15 wouldn't a favorable outcome of prohibiting releases and
16 findings, would that be favorable for your next assignment?

17 A I'm not in a niche market. This is the only
18 investigation that I have ever done as an independent
19 director. I did some -- I led some when I was a lawyer and
20 I was involved in some when I was a banker, but I'm not out
21 there looking for board seats. People call me from time to
22 time and if I think I can help and it interests me for
23 whatever perverse reason, sometimes I say yes because I can
24 only play so much golf, but I don't -- I'm not thinking
25 about the next deal. I'm not in the business of doing

1 investigations.

2 Q Got it, great, and I certainly didn't mean to assume
3 anything. I'm just trying to learn more about, you know,
4 all these case rules I've never been exposed to.

5 MR. HENDERSHOTT: So, thank you, sir, for your
6 time and I can cede the podium. Thank you.

7 THE COURT: Very good. Anybody else on the phone
8 who wishes to cross-examine Mr. Pohl?

9 MAN 1: I have one question.

10 CROSS-EXAMINATION OF TIMOTHY POHL

11 BY MAN 1:

12 Q For the avoidance of doubt, I know you sort of
13 clarified this earlier, Mr. Pohl, but when you state
14 insiders were the primary focus of your investigation, that
15 does not include business partners such as Market Rebellion?

16 A No, it does not.

17 MAN 1: Okay, thank you.

18 THE COURT: Anybody else?

19 MS. DIVITA: This is Michelle DiVita. I have some
20 questions as well.

21 THE COURT: I'm sorry, who was it again?

22 MS. DIVITA: Michelle DiVita.

23 THE COURT: Okay, Ms. DiVita.

24 MS. DIVITA: Sorry, take it off speakerphone.

25 THE COURT: Go ahead.

1 MS. DIVITA: Okay.

2 CROSS-EXAMINATION OF TIMOTHY POHL

3 BY MS. DIVITA:

4 Q My first question here is, do you mind clarifying who
5 exactly was responsible for conducting the financial review
6 portion of the special committee's investigation? I believe
7 you mentioned there was no financial advisor appointed.

8 A Well, no. I think when the special committee hired
9 expert outside, they did the primary legwork factually with
10 respect the factual underpinnings of our conclusions; that's
11 the meat of the investigation. We did not retain, and we
12 don't think we needed to retain, a financial advisor to
13 assist us.

14 If we had financial advisor type questions about
15 the business or about something historical that was sort of
16 beyond the purview of what lawyers could answer or were
17 qualified to answer, we from time to time availed ourselves
18 of the Debtors' professional financial advisors at BRG.
19 There wasn't really a lot of that. The only thing financial
20 with respect to our investigation per se was, you know,
21 looking at the financial information of Mr. Ehrlich and Mr.
22 Psaropoulos, which we did, and we didn't need a lot of
23 financial expertise to understand the information that they
24 provided to us.

25 Q Okay. So, you didn't see anything at least unique in

1 the financial statements that would have independently
2 warranted an expert beyond outside counsel or professionals
3 already retained by the Debtor, correct?

4 A No, we did not.

5 Q And then does the Debtors' current financial advisor
6 have experience in cryptocurrency advising and/or the
7 banking industry?

8 A Yes, they do.

9 Q So you mentioned that the financial investigation was
10 submitted to the statements provided by the CEO and COO. Do
11 you mind clarifying why financial or counterparty exposure
12 is not part of a financial review?

13 A Not sure I'm following your question. The company --
14 we were investigating the company's practices around the
15 loans and related activities that they were undertaking, and
16 so we certainly obtained information from the company about
17 the analyses that they did at the time that they made loans
18 and decided to enter into business relationships with the
19 parties that they entered into their relationships with. We
20 didn't need independent financial advisors to understand
21 what that information was that they provided to us.

22 Q Okay. So, to clarify then, you were examining the
23 initial loan agreement, not necessarily the viability or
24 risk management related to subsequent term sheets provided
25 thereafter.

1 A We were looking into whether we thought that the
2 totality of the diligence that they performed before
3 deciding whether to make loans to Three Arrows Capital,
4 whether there was anything sufficiently unusual about how
5 they went about their business that it was so widely off the
6 mark that it would give rise to a claim that satisfied the
7 legal requirement for a breach of fiduciary duty claim,
8 which is very strict, very high.

9 Q Got it. So, you did or did not find a breach of
10 fiduciary claim then related to the 3AC loan?

11 A We found that there might be a claim that has merit
12 related to the risk management practices around that
13 transaction, and we preserved the claim for the benefit of
14 the estate. We limited who the estate could get money from
15 to, number one, the \$20 million of officer and director D&O
16 coverage and, two, we settled the exposure, the personal
17 exposure, of Mr. Ehrlich and Mr. Psaropoulos by entering
18 into settlements with them where they paid some money.

19 So, the claims against them are preserved, they're
20 not released, they can be sued. And, if that lawsuit has
21 merit, which it might, it certainly is a non-frivolous legal
22 theory based on the facts and the law as we analyzed it in
23 our business judgment and if the winddown estate, which is
24 going to own the right to prosecute that litigation, they
25 can do what they want with it. They can sue them, they can

1 settle with the D&O carriers, and they can get paid either
2 through settlement or by litigating and winning if they do
3 from the officer and director liability carriers up to \$20
4 million, minus however much is depleted defending the
5 lawsuit.

6 Q Okay.

7 A And as to the individual, while they will be sued, they
8 have already will have paid in settlement the amounts of
9 money that I went through before.

10 Q Got it. So then was there anything unique about the
11 3AC due diligence? It was my understanding that it was the
12 risk management policies in general that allowed or maybe
13 warranted this potentially colorable claims.

14 A Yeah, there were a few things about 3AC that were, I
15 think in our judgment, a little lax relative to other
16 counterparties. There were some things that, in our
17 judgment -- by the way, the officers and directors wouldn't
18 agree with this, but that's why their claims that we're
19 preserving -- we did think that there were some specific
20 things or the absences of some specific things around the
21 decision to make loans to Three Arrows Capital that were
22 different than the decisions to make loans to other parties
23 that they made loans to, less diligence.

24 Q Was that, like -- okay.

25 A Less diligence and less of the diligence that we would

1 have expected.

2 Q I'm sorry, can you repeat that?

3 A Less diligence and less of the kind of diligence that
4 we would have expected.

5 Q So what information was provided then that gave you
6 confidence that the Debtors would heighten its standard of
7 due diligence in its administration or management of the
8 estate during bankruptcy?

9 A I'm sorry. I didn't hear the last part of what you
10 said.

11 Q So what additional I guess, like, change gave you
12 confidence that the amount of due diligence performed after
13 3AC would not give rise to another breach of duty of care in
14 the Debtors' management or directors' and officers'
15 management of the Debtors' estate in bankruptcy?

16 A I still am not following your question. You analyzed
17 specific transactions that they did to see if there's
18 anything actionable as a result of them. They did the Three
19 Arrows transactions between March and May of 2022, the world
20 blew up in June, and they were in bankruptcy by July. There
21 weren't -- right, so things happened very quickly. Those
22 transactions weren't in 2021 or 2020; they were in March,
23 April, and May of 2022, and this company was in bankruptcy
24 by the time fireworks were over on July Fourth.

25 Q So I guess what additional information provided in the

1 special committee's report gave you confidence that, you
2 know, things were good in March when, you know, this lax due
3 diligence occurred that when things are, you know, under
4 pressure, the Debtors and their directors and officers would
5 be able to perform adequate due diligence in the
6 administration and management of the bankruptcy proceeding?

7 A Well, again, I'm going to try my best to answer that
8 question as I can understand it. We're not investigating
9 generically whether or not they have risk management
10 practices that were good. What we're investigating is
11 whether there were transactions that they did that they
12 shouldn't have done because their risk management practices
13 were deficient in some way.

14 So, it's not a theory -- you have to have a thing
15 that they did that they shouldn't have done that blew up in
16 their face, to use a colloquialism, that you're looking
17 into. What were the circumstances around that and as a
18 result of what they did or didn't do in a specific area,
19 transaction that damaged the company, whether or not you
20 think that they breached their fiduciary duties.

21 Q Got it. So, a company that is in the business of, you
22 know, taking customers' deposits and, you know, managing
23 this -- we'll call it an offering or I don't know if that's
24 the right word, but this kind of business relationship here.
25 And you're saying that that business that could -- you were

1 only looking at transactions rather than the business
2 activity as a whole, correct? I just want to make sure I'm
3 following.

4 A I think so. Again, it's hard to really understand the
5 question, but we were not evaluating the business as a
6 whole. We were evaluating whether anybody did anything
7 wrong with respect to the transactions that didn't work out
8 for the company.

9 Q Got it. So, is it normal in your (indiscernible)
10 experience to have a single transaction take down a
11 multibillion-dollar company?

12 A Well, having 25 percent of your assets that were on
13 loan that you thought that you could get back any time, you
14 know, having that suddenly not be true because you were
15 defrauded in the context of the industry having its own
16 macro issues, for lack of a better way to say it, those are
17 the types of circumstances that put companies in bankruptcy
18 in lots of industries; that's what happens. You don't just
19 find yourself in bankruptcy. Something precipitous often
20 happens that leads to a chain of events that puts you in a
21 position where you end up bankrupt.

22 Q And precipitous then doesn't include the I guess
23 counterparty or financial risk management of the Debtors,
24 correct?

25 A I'm not sure I'm following what your question is.

1 Q So if a 25 percent, you know, of -- that's what this
2 transaction represents of the Debtors' assets? What you're
3 saying is that the reason that a 25 percent transaction
4 could justify a bankruptcy filing can only occur because of
5 some, like, outside source, not because of how the Debtor
6 has managed its internal financial affairs to address
7 adequately counterparty risk and loans and things like that.

8 A I don't know if I'm saying that. I'm saying that if
9 they had loaned 25 percent of their assets to Warren
10 Buffett, we all wouldn't be here. I'm not trying to be
11 glib.

12 Q Got it. Okay, that's helpful.

13 A I'm trying to make the point that it's because of what
14 happened to the counterparty that we're here. And the
15 question is whether they should have been in business with
16 the counterparty and the other question is whether, as they
17 went into business with the counterparty, did they do
18 anything so grossly unusual or inappropriate that those
19 individuals who participated in that have personal
20 liability; that's the question.

21 Q Okay. That actually is very helpful for me to
22 understand, so I like your Warren Buffett example. In the
23 case of -- I don't know how to phrase this. I'll skip that
24 question for now.

25 So, you only identified, or I guess at least in

1 the filing, only the CEO and COO were identified as parties
2 responsible for entering into this 3AC loan; is that
3 correct?

4 A They were the decision makers and it was really
5 predominantly the CEO.

6 Q Okay. And since your investigation didn't look into
7 the general risk management policies, nothing, there was no
8 red flag there that, you know, two people, only two people
9 had decision-making authority in this matter.

10 A No, I didn't say that. That's a good question. We
11 looked at the whole risk management process, all the people
12 that were involved, as I said, I think much earlier now,
13 today. We conducted a dozen interviews, not two interviews.
14 We interviewed everybody, almost everybody in the group of
15 people that they called the risk management committee that
16 in some way touched the thinking around or the vetting of a
17 potential counterparty.

18 But the way that their process worked, the buck
19 stopped with two people and really mostly the CEO, and they
20 were the only ones that had real authority. They were the
21 only ones that made decisions. There were no votes taken by
22 any larger group. There was just information provided and
23 the terms and conditions of the actual loans that were made,
24 as opposed to the decision that it's okay to enter into
25 loans with the counterparty conceptually.

1 Once the group decided, okay, we're going to do
2 business with counterparty X, how much money to lend and on
3 what terms was the decision, that information didn't even
4 make it to the rest of the group that those things were
5 decided and only decided by Mr. Ehrlich and, to a lesser
6 degree, Mr. Psaropoulos. And that's why we believe that
7 they are the two people against whom there are cognizable
8 potential claims, not the other people.

9 Q Got it. So, if the CEO or COO, it sounds like they
10 kind of really managed the counterparty exposure, financial
11 element of this, would the estate have any claims against
12 either of those two for making statements that were not
13 consistent with the company's risk management policies? So
14 maybe -- here's an example -- if an officer is representing
15 that a company's financial exposure, counterparty exposure,
16 is X, but in reality it's Y, the estate wouldn't have any --
17 that's not a cause of action or is it?

18 A Well, again, you're giving me sort of a hypothetical.
19 But again, we didn't -- we looked at all of the facts and we
20 did not think that there was anything in those facts that
21 gave rise to an estate, as opposed to an individual
22 customer, an estate, a company cause of action against
23 officers and directors.

24 Now, if an individual customer thinks that they
25 were misled in some way, whatever that way is, and they

1 think that they have a claim against an officer or director
2 for whatever they think the basis is of that claim, we
3 didn't investigate that and, most importantly, it's not
4 released under this plan. Those claims are free to be
5 brought.

6 Q Okay, and then just a few more. So, is this
7 profitability analysis for a director and officer conduct
8 claims, like, typical in bankruptcy?

9 A I don't even know what that means. Profitability --

10 Q So when you're examining the personal assets of the CEO
11 and COO --

12 A I'm sorry, now I understand.

13 Q -- you know, is that typical?

14 A I'm sorry, now I -- I think what you mean is was it
15 typical for us to have looked at whether -- I'll use Mr.
16 Ehrlich as an example. Is it typical for us to have looked
17 at whether -- at his personal financial situation; is that
18 your question?

19 Q Yes, exactly.

20 A Okay. Well, I would say -- let me rephrase your
21 question for you because it's a good point and we did look
22 at it and we looked at it for a reason. We looked at it
23 because we were trying to, in our business judgment, obtain
24 the best possible result for the estate that we could as a
25 legal and as a practical matter. And so, while on the one

1 hand we thought that there might be good claims against him
2 for the reasons I've articulated, and while it's true it's
3 America, anybody can sue anybody for anything, it doesn't
4 mean you can get something from somebody even if you win;
5 they have to have something to get.

6 So, we wanted to know what there was to get from
7 them so that we could figure out what would be, in light of
8 that, a good settlement. And so, a settlement from him for
9 \$10 would not have been a good settlement; he had more to
10 five than that. A settlement from suing him, not settling,
11 a settlement where you got a million dollars from him, we
12 thought was a good settlement because you could sue him for
13 \$10 million but he doesn't have \$10 million, he doesn't have
14 \$5 million.

15 So, we were trying to assess, doing the best that
16 we could -- we didn't have any reason to want to do anything
17 other than that -- we didn't have to settle with him. We
18 thought it was a good idea to settle with him on the terms
19 that we settled for in part because we looked at what does
20 he have to give and it wasn't very much. So, we got, in
21 relation to that, what we thought was a reasonable and a
22 fair amount, better than getting nothing from him,
23 especially when coupled with we didn't actually have to
24 release him so that we could go after the \$20 million pool
25 of money that's potentially available from the D&O carrier.

1 So, if you're settling with somebody -- I'm
2 rephrasing your question -- is it typical in a bankruptcy to
3 look at every individual officer and director's personal
4 assets? No. If you're trying to figure out what a good
5 settlement is from an individual, that's probably something
6 you want to look at, and so we did.

7 Q Got it. As part of that settlement analysis or I think
8 part of the justification of agreeing to a settlement at all
9 with someone who doesn't have any assets, it's this
10 indemnification and D&O insurance policy issue, right?
11 Like, those are the two kind of reasons that a settlement
12 was favorable in this instance?

13 A Yeah. I think to answer to your question is we
14 reasoned that the D&O policy was a bigger pool of money by a
15 lot than the pool of money that these individuals had. We
16 preserved it 100 percent, and we got from them what we
17 thought was a reason- -- in our judgment, in our business
18 judgment, that's what it was based on the facts and we
19 uncovered all the facts, including about what they're worth,
20 we thought that that was a good settlement for the benefit
21 of the creditors, which are really the customers. Better
22 than the alternative, which is not to settle with them, not
23 to get the money, and not be able to get anything from them
24 anyhow if you could win litigation that if it was brought is
25 going to be hard to win anyhow because the standards are

1 tough.

2 Q Yeah. So then for this D&O insurance piece, especially
3 a Side A policy, the premium, that's a risk calculation,
4 right? It sounds like the premium on that Side A policy was
5 \$10 million and then the payout max -- I don't know if it's
6 a maximum -- was also \$10 million, correct?

7 A We didn't make any -- we didn't write the policy.
8 We're not the insurers. I'm not sure I know what your
9 question is. Insurance companies --

10 Q Did you review the policy?

11 A -- decide what they'll charge for the coverage that
12 they offer.

13 Q Correct. And so, insurance companies, they're charging
14 for risk, correct? That's my understanding.

15 A Well, I don't know what goes into their calculation. I
16 mean, conceptually, that's what they're doing, but it's not
17 a simple business.

18 Q Oh, I'm well aware. So, this would at least imply that
19 the person it's insuring is risky enough to justify a 100
20 percent premium amount. Is that a reasonable statement to
21 you?

22 A No, I really don't know what they were thinking.

23 Q I mean, because the insurers are probably coming out
24 ahead of you if there isn't much risk if your premium is 100
25 percent the policy amount. I think you previously mentioned

1 that, you know, it was counsel's recommendation to enter
2 into this policy. But in terms of, like, special or
3 investigation, there wasn't any additional, you know,
4 inquiry into why this amount equaled the payout. Like, it's
5 a weird insurance term, right? You don't buy insurance for
6 the same amount or you pay a premium for the same amount a
7 policy is. So, I guess clarifying that there was not any
8 additional investigation there, right, into why the CEO
9 or...

10 A Well, again, the investigation was -- investigation is
11 a strange word for that. We understand what the facts were.
12 We preserved the ability to go try to get that money back
13 from the only party that has the ability to pay that money
14 back and we thought it was important to preserve that. We
15 found that. Nobody came to us and said, hey, good idea,
16 don't you want to make sure we can go after the insurance
17 policy, you know, on a fraudulent conveyance claim for the
18 \$10 million because something seems odd, you know, all this
19 money was paid for that much coverage.

20 We flagged that issue because we uncovered it --
21 not uncovered, no one was hiding it from us. We read all
22 the documents, we asked for information, we talked to
23 people, and we said, just like you just said, huh, that
24 seems unusual. We're not going to let that just go away.
25 We're going to make sure that it gets preserved so that it

1 could potentially be unwound if legally there's a basis to
2 do that, and we suspect that there might be.

3 Now, sure, the insurance company doesn't think so,
4 and I'm sure other people don't think so, but we've
5 preserved it. We didn't litigate it to conclusion, we
6 didn't let it go; we preserved it. I would preserve it for
7 the same -- based on the same observation that you are
8 making.

9 Q Okay. So, did you identify any colorable claim from
10 the D&O insurer that may justify avoiding paying out any
11 insurance claims?

12 A Are you asking me whether we think that the D&O carrier
13 has any basis to deny coverage; is that what you're asking
14 me?

15 Q Correct, yes.

16 A I don't. I'm not aware of any, but it wasn't -- we
17 certainly investigate that, but nothing that we did
18 investigate stands out as a red flag.

19 Q Got it. One more question. Alameda was an insider
20 shortly before it canceled shares I think a few weeks, maybe
21 a few days leading up to bankruptcy. Is there a reason they
22 were excluded from the investigation as insiders?

23 A I don't understand your question. Who is --

24 Q So Alameda --

25 THE COURT: Who? Oh, Alameda.

1 MS. DIVITA: Yes.

2 THE WITNESS: I'm sorry, ask me that -- what are
3 you asking me? That's just because it's hard to hear.

4 BY MS. DIVITA:

5 Q Oh, sorry. They were an insider based on the number of
6 shares they held shortly before bankruptcy and the canceled
7 a certain subset of those shares and no longer, I think at
8 least Canadian public filing standards, qualified as an
9 insider shareholder. Is there a reason that Alameda, who
10 was a shareholder -- or I'm sorry -- insider shortly before
11 bankruptcy was not included in the investigation of other
12 insiders?

13 A Yeah. I mean, whether they're an insider or not, I'm
14 not 100 percent sure. But assuming that they are, it never
15 occurred to us that they would ever be released, so we
16 didn't need to investigate them; there's no release for
17 Alameda. We were investigating officers and directors
18 because of the possibility that releases would be proposed
19 and we would be asked about whether or not we thought that
20 was appropriate. There was never any idea that Alameda
21 would be released from anything, so there was nothing to
22 investigate. The estate can sue Alameda until the cows come
23 home if they want to.

24 MS. DIVITA: Okay, that's all I have. Thank you.

25 THE COURT: Okay.

1 ANDRE: I'm sorry, Your Honor. I have some
2 questions too.

3 THE COURT: Who is that?

4 ANDRE: This is Andre (indiscernible), pro se
5 creditor.

6 THE COURT: Okay.

7 CROSS-EXAMINATION OF TIMOTHY POHL

8 BY ANDRE:

9 Q Okay. Mr. Pohl, your committee was basically tasked to
10 investigate the company's policies to see if they did their
11 -- investigate the company's practices on their due
12 diligence. In your opinion, did they perform sufficient due
13 diligence against 3AC?

14 A No.

15 Q And what would -- why not?

16 A Well, I think they did conduct some due diligence.
17 They had a process. They did have a series of phone calls.
18 They asked for certain information and they got some of the
19 information they asked for, but not all of it. They were
20 aware importantly that there was another company that was
21 making loans to 3AC that was known to have a very rigorous
22 due diligence process of their own, so they took comfort in
23 the fact that --

24 ANDRE: I'm sorry. There's some background noise.
25 I can't hear you.

1 THE COURT: Somebody else has got an open
2 telephone line; they need to mute it.

3 THE WITNESS: Okay. So, they got a whole bunch of
4 different kinds of information in different ways. They
5 conducted interviews. They asked for certain information.
6 They got some public information. They had knowledge of
7 other companies --

8 BY ANDRE:

9 Q Did they investigate the --

10 A Can I --

11 Q I'm sorry. Did they investigate the company's books?

12 A That's what I'm -- let me answer --

13 THE COURT: Who is speaking? Who asked that
14 question?

15 ANDRE: I'm sorry.

16 THE COURT: Who asked that question?

17 ANDRE: Oh, I did. Andre (indiscernible).

18 THE COURT: Okay. You got to let the witness
19 finish. You can't interrupt him.

20 THE WITNESS: So, they did a whole number of
21 things, including asking for financial statements from Three
22 Arrows. They did not get financial statements from Three
23 Arrows in the conventional sense. They got a very short
24 what's called an NAV statement, it was signed, that said
25 from Three Arrows that they had a net asset value in the

1 multiple, multiple billions of dollars. That was part of
2 the group of things that they relied upon, not the only
3 thing, but it was part of it. It was not very robust. We
4 did not think that that was very sufficient. That was one
5 of the things that we thought was deficient.

6 But it wasn't the only thing that they relied
7 upon, so we can't sort of point only to one factor. We
8 reviewed what they did, what they looked at, and we did not
9 think that it was as robust as it should have been. And
10 that's why we did not believe that -- that's why we did
11 believe and do believe that there are potential claims for
12 violation of the duty of care against the two individuals
13 that ultimately decided to make those loans anyhow.

14 Now it's not a clearcut winner. They did do some
15 due diligence. Other people were doing business. It's not
16 even clear that, even if they had done better -- in my view,
17 better due diligence, that the answer would have been any
18 different. They were defrauded. They were defrauded, they
19 were being lied to.

20 BY ANDRE:

21 Q Yes, I'm sorry. So, what other due diligence did they
22 do then?

23 A I just described it.

24 Q Exactly, like, what other?

25 A I just described it. They had a series of phone calls.

1 They had a series of interviews. They looked at -- let me
2 finish.

3 Q Series of phone calls with who?

4 A People at --

5 Q Be more specific please.

6 A People at Three Arrows, including one of the two
7 founders.

8 Q Okay.

9 A So they conducted interviews. They looked at the
10 documents that they were provided. They looked at public
11 information. They knew that --

12 Q What documents were those?

13 A They knew that there were other people doing business
14 that had their own rigorous -- their own due diligence
15 processes which were believed to be rigorous. Three Arrows
16 Capital at the time they did business with them was a
17 marketplace darling, much like Alameda. There was -- we
18 weren't the only -- Voyager wasn't the only company doing
19 business with Three Arrows, just the opposite. All of those
20 things in total combined was the diligence they did. They
21 did that diligence over a roughly a one-month period.

22 Q This is, like, more like pseudo due diligence because
23 at the very least, they didn't look at the company's books,
24 they didn't look at their financial statements. They didn't
25 ensure that they were capitalized.

1 A They did -- all I can say is they did the diligence
2 they did and we did not find that the result of that
3 diligence was so robust that there was no potential claim.
4 That's why we preserve the claims and entered into the
5 settlements that we did.

6 Q And you believe that that was after the risk
7 management...

8 A I think I just said the opposite.

9 Q Okay. Well, that's what I'm actually getting to, is
10 that you have a company here that has, let's just say, 1.3
11 billion in assets that are ready and willing to lend out
12 half of their business to another party because they told
13 them we have 3.7 billion of net assets that you can go in
14 with, you can do business with us. What I'm trying to get
15 here is that I think this is just more than, oh yeah, we
16 found some negligence. We found that, you know, they didn't
17 really the do less diligence; they didn't do any diligence,
18 yeah?

19 A What's the question?

20 Q Is that the -- that's the question. It sounds like
21 they didn't do any diligence and you're saying they did some
22 diligence.

23 A I just described the diligence.

24 Q And the --

25 A I just described the diligence.

1 Q Right. But ultimately, these actions caused the
2 downfall of the entire company. In one month, it caused 3.5
3 million customers, you know -- all right, I'm going to move
4 on from that.

5 What was Stephen Ehrlich's net worth or what did
6 Stephen Ehrlich have? You said, oh, he didn't have much.
7 What did he have?

8 A I'm a little handicapped by confidentiality agreement,
9 so I'll try to answer it, again, the way I answered it
10 before. He has a house; he has some money in a retirement
11 account and he had some money in a bank account. Can I --

12 Q This is Stephen Ehrlich's?

13 A Yes. I'm answering your question, yes.

14 Q Okay.

15 A The house, he had some money in a retirement account,
16 and he had some money in a bank account. The lion's share
17 of the money in the bank account he's giving back to us.
18 The retirement account was smaller and the value of the
19 house I think is smaller too. It's right around the same.
20 I can't remember the exact...

21 Q And that --

22 A So we did not take his house. If we had insisted on
23 taking his house and his IRA, there would have been no
24 settlement because he would not have agreed to it.

25 Q Okay. And what did you recover from Mr. Ehrlich?

1 A \$1.25 or \$1.125, one of those two numbers, \$1.125
2 million plus, to the extent that as a result of giving us
3 that money, he is entitled to a refund from the IRS, which
4 he might be, we get that also.

5 Q Okay. And then from Mr. Psaropoulos, what -- again, so
6 can you answer, does Stephen Ehrlich have a network of more
7 than 5 million?

8 A No.

9 Q No, you can't answer or no, he doesn't.

10 A No, he doesn't.

11 Q Does he have a net worth of more than a million?

12 MR. KIRPALANI: I'm just going to object, Your
13 Honor, on the basis of confidentiality and I don't want my
14 witness to be sued for violating a confidentiality
15 agreement. I think he's answered the questions about this
16 and the scope of the assets.

17 THE COURT: Is there anything else?

18 ANDRE: I'm trying to --

19 THE COURT: Is there anything else you can say
20 about the range of Mr. Ehrlich's net worth within the limits
21 of your confidentiality agreement? I presume it was over a
22 million or he wouldn't have paid a million.

23 MR. KIRPALANI: Yes. I think you can -- I think
24 you've tried, but please, Mr. Pohl. And please also answer
25 because it was referred to earlier and just in the interest

1 of time, did you consider whether these individuals lived in
2 community property states, such that their wives assets
3 might be available to satisfy a judgment against them
4 because there was references to that earlier too.

5 THE WITNESS: So, let me start with him and then
6 I'll go to his community property so that it's clear. Try
7 it again, maybe I wasn't clear. I think you can think about
8 what he has in three buckets: he has a house, that's one
9 bucket; he has some money in an retirement account, that's
10 the second bucket; and then he had some money in his bank
11 account.

12 We have most of the money from his bank account
13 coming back to us, the estate. We did not get his house and
14 we did not get his retirement account. If we had insisted
15 on either of those two things, there would be no settlement
16 and we would not have had the \$1.125 million.

17 With respect to his wife -- with respect to his
18 wife, his wife has assets. We looked at legally whether or
19 not if he were sued, would there be an ability to get at his
20 wife's assets, and the legal answer in the state that he
21 lives in or that she lives in is no, there is no legal
22 recourse to her assets. So, it may be the amount of her
23 assets are not relevant because there's no way to get to
24 them. We looked.

25 BY ANDRE:

1 Q And that they would be Connecticut?

2 A I think he's Connecticut, right. I might confuse
3 between the two of them who lives where, but one of them is
4 Connecticut, and that was legally --

5 Q And the house is -- and this house of his is in
6 Greenwich?

7 A I don't know where his house is.

8 MR. KIRPALANI: Your Honor, I'm advised -- sorry
9 to interrupt the question, but if I could just try to
10 clarify something -- advised by counsel to the creditors'
11 committee that filed on the Docket 112-1 was the committee's
12 own report where it was disclosed that Mr. Ehrlich reported
13 his net worth as approximately \$2.57 million. Mr.
14 Psaropoulos declined to allow his net worth to be disclosed,
15 so that's the number.

16 THE WITNESS: Okay. I didn't know that. I knew
17 what the number was; I didn't know it had been disclosed.
18 So, I think you can see that we did settle with him for a
19 very significant percentage of his net worth and,
20 importantly, the net worth of his that we did not obtain is
21 not the same; it's in different categories, it's a house and
22 it's a retirement account.

23 ANDRE: I'm sorry (indiscernible). Say it again.

24 THE WITNESS: I didn't understand --

25 ANDRE: Can you hear me?

1 THE WITNESS: Yeah. Say that again please?

2 ANDRE: Just saying I got dropped from the call,
3 so I'm letting you know that I'm back on.

4 THE COURT: Oh, all right. Well, I don't know if
5 you were on, but Mr. Kirpalani pointed out that it's been
6 previously revealed in a filing on the docket that Mr.
7 Ehrlich's reported net worth was \$2.75 million.

8 MR. KIRPALANI: \$2.57.

9 THE COURT: \$2.57, excuse me. I'm getting
10 dyslexic as I get tired. And that the witness then said he
11 believed that they had settled for a significant percentage
12 of the total net worth and for most of the cash that was had
13 and that he considered it a good settlement in light of the
14 fact that he couldn't get at -- or unlikely to get at the
15 house and the IRA.

16 THE WITNESS: Okay. I also said that we did look
17 at his wife's assets. We were trying to -- we were looking
18 to get everything that we could reasonably get, and we
19 concluded based on legal advice that we would be unable to
20 get to his wife's assets. If someone didn't settle and sued
21 and won -- a lot of ifs there -- but if you didn't settle
22 and you sued and you won, could you get at her assets? No,
23 you couldn't.

24 BY ANDRE:

25 Q Right, okay. I don't want to deflect too much from the

1 main course here. What were the -- how much did you recover
2 from Mr. Psaropoulos?

3 A Much less. Mr. Psaropoulos is subordinating his right
4 to 50 percent of his crypto assets, but not in the Voyager--

5 Q Right, okay.

6 A So the value is about, at the time that we calculated
7 it -- and I know the price is moved every day, but the day
8 that we calculated it, it's worth about \$60,000; it's not
9 nearly as much. His net worth is significantly less, number
10 one, and number two, he was not as culpable. We thought the
11 claims against him were weaker because it was really Mr.
12 Ehrlich who was the decider with respect to making the loans
13 to Three Arrows and in what amounts, so the strength of the
14 claims wasn't the same.

15 Q So if I can just synthesize this correctly. Stephen
16 Ehrlich's and Evan Psaropoulos, the main culprits in
17 decision making, you know, with regard to the loan to Three
18 Arrows, which ultimately brought down the company and caused
19 a lot of harm to all of Voyager's customers. And your
20 committee, instead of going after everything that they had
21 and basically potentially making them poor, you agreed to
22 settle on a smaller amount because maybe that was better
23 than getting nothing. Does that sound about right?

24 A No, I wouldn't describe it that way. I think we
25 thought that it was better than not settling. Again, I

1 don't want to be misconstrued. The fact that there may be
2 claims against them is not the same thing as saying that
3 those are slam dunk winners; they're not slam dunk winners,
4 legally, they are not slam dunk winners. There's a lot of
5 uncertainty about whether you could sue them and succeed,
6 and so, that had to be factored into account.

7 And our goal wasn't to make them poor. The goal
8 was to get the most for the estate that we reasonably could
9 under the circumstances and that's what we did.

10 Q Well, by my comment of making them poor, I mean taking
11 everything they have from them and putting it into the
12 estate so that all the other creditors can at least get a
13 little bit more. And, quite frankly, I mean, they should
14 have nothing after their decision.

15 One last question. If you do not opt in --

16 THE COURT: Did you look at exemptions available
17 under Connecticut law?

18 THE WITNESS: You mean on the marital property,
19 Your Honor?

20 THE COURT: On the house and on the IRA or in the
21 event that Mr. Ehrlich declared his own bankruptcy?

22 THE WITNESS: No. We were really focused on her
23 property because it was more. And when we -- the house and
24 the IRA, again, those amounts are smaller even comb- -- you
25 know, were not as significant as the cash. So, you know, in

1 negotiating, when we could get the cash and get almost all
2 of the cash, we thought relative it was total assets that
3 was a fair deal compared to not settling at all and suing
4 them and maybe getting nothing.

5 And we knew that -- no, we just didn't know, it
6 was a settlement, it was a negotiations, but that he was not
7 going to agree to give up his house and his IRA.
8 Fortunately, the values of those things was not so
9 significant that it made just getting at the cash not a good
10 deal, all in. It made it a good deal. It was still a good
11 deal all in.

12 BY ANDRE:

13 Q Okay. I have actually two more questions. One was if
14 you do not opt-in to the finance deal, then you -- or
15 rather, if you do opt-in to the finance deal, then you
16 basically give up any rights to sue Mr. Ehrlich, yeah?

17 MR. KIRPALANI: Objection. Exceeds the scope of
18 direct. But if you understand, if you know the answer to
19 this question.

20 THE WITNESS: Are you asking me about under the
21 plan if somebody opts-in to the finance, if they keep their
22 asset --

23 BY ANDRE:

24 Q Right, they give up their rights to sue?

25 A If they keep their asset on the finance --

1 THE COURT: No. My understanding is if you voted
2 in favor of the plan or if you executed an affirmative opt-
3 in to the releases, you would --

4 THE WITNESS: Just an affirmative opt-in, even for
5 people who voted yes?

6 THE COURT: I thought you were binding people who
7 voted -- so people who voted for the plan are not bound by
8 the releases, okay.

9 THE WITNESS: Of the individual claims.

10 THE COURT: Okay. It's just they're only -- okay,
11 so the only people who have released claims are people who
12 have affirmatively opted in. That's people who checked the
13 opt-in box on a ballot, not people who elect to become
14 finance customers.

15 BY ANDRE:

16 Q So on the Voyager app, when it asks you do you want to
17 transfer your data now and opt-in, that has nothing to do
18 with giving up your rights to sue them personally or does
19 that?

20 A That's correct.

21 ANDRE: Okay. I don't have any more questions.
22 Thank you.

23 THE COURT: Okay. Anybody else on the phone?

24 MS. DIRESTA: Hi, Your Honor. This is Gina
25 DiResta again, and I have a question for the witness.

1 THE COURT: Okay.

2 CROSS-EXAMINATION OF TIMOTHY POHL

3 BY MS. DIRESTA:

4 Q Hi, Mr. Pohl. I heard a bunch of rumors that Voyager
5 employees and even some of the customers were supposedly
6 tipped off that the Voyager platform was going to get shut
7 down and told to take their assets off the platform before
8 it got shut down. Did you do any kind of investigations
9 along these lines?

10 A I am not aware that we saw anything consistent with
11 that.

12 Q Did you hear any kind of rumors around those lines at
13 least?

14 A No, I'm not -- I for sure did not hear any rumors and
15 no one else has told me that they heard those rumors either.

16 Q Okay. Because it's actually, like, a lot of people say
17 it and, like, then, you know, it doesn't necessarily mean
18 it's true, but a lot of people have been spreading that on
19 different social media platforms. So, I didn't know if it's
20 something that -- I'm surprised you haven't heard of it just
21 because it's, like, rampant out there, and then I wanted to
22 know if you guys did any kind of investigation along those
23 lines.

24 And since you guys didn't do any investigations
25 and I just now got to your attention that there were a lot

1 of rumors about it, is there a way to investigate that after
2 the fact? I know you guys have already done your
3 investigation, but is there a way to do that now?

4 A I don't think we would be investigating social media
5 rumors, but...

6 MS. DIRESTA: Okay, thank you. That's all.

7 THE COURT: Okay.

8 MR. LOREN: Your Honor, this is John Loren, pro se
9 day creditor. Can you hear me?

10 THE COURT: I can.

11 CROSS-EXAMINATION OF TIMOTHY POHL

12 BY MR. LOREN:

13 Q For the witness, I was curious if you investigated any
14 of Steve's, like, shell companies, holdings, and/or trusts?

15 A Well, we requested and received sworn statements where
16 he was required to disclose to us all of his assets and then
17 he was deposed, so he would have been required to disclose
18 those things to us and there was no disclosure of any other
19 assets other than the ones we've talked about.

20 Q So if Steve Ehrlich votes, owns, or has a participation
21 in shell companies, holdings, or trusts and he told he that
22 he didn't, that's something we can potentially investigate.
23 Am I hearing that correctly?

24 A I guess. If you're asking what the legal ramifications
25 are of it were to turn out that he lied in his sworn

1 testimony to us, I'll defer to the lawyer to answer that
2 question, but I'm sure there would be some.

3 Q Wonderful, okay. And then there's a new article that
4 came out, basically there's a new fund coming out in Tampa,
5 Florida, and Steve Ehrlich is actually one of the employees
6 or, I guess, one of the partners in this fund; it's called
7 Druid. Have you heard anything about this?

8 A I have not.

9 MR. LOREN: Okay. That's all I have. Thank you.

10 THE COURT: Okay. Anybody else? Okay.

11 MAN 3: Your Honor, could I (indiscernible), one
12 of the creditors (indiscernible) because I'm not in this
13 because I came in a bit late.

14 CROSS-EXAMINATION OF TIMOTHY POHL

15 BY MAN 3:

16 Q (Indiscernible). What is the timeframe out and do we
17 know the limits; is that a weekly limit of withdrawals from
18 the balance (indiscernible) implementing to distribute daily
19 without leaving the market to suffer? How is that
20 (indiscernible); is that two-month timetable so it fully
21 distribute or a shorter timeframe?

22 THE COURT: Okay. That's not an appropriate
23 question at this time. We're in the middle of taking
24 evidence, so the issue is whether you have a question about
25 the subject of this witness's testimony. We'll be resuming

1 tomorrow and you can get clarification of your issues then.
2 In fact, you could probably also talk to the Debtors
3 overnight and get a clarification. Okay?

4 MAN 3: Thank you.

5 THE COURT: Anybody else with questions for this
6 witness? All right, the witness is excused and we'll
7 adjourn for the evening. We'll resume tomorrow at 10:00.

8 MAN 4: (Indiscernible), Your Honor?

9 THE COURT: Yes. Did you have questions for the
10 witness?

11 MAN 4: No.

12 THE COURT: Okay. Yes.

13 MR. UPTEGROVE: William Uptegrove on behalf of the
14 United States Securities and Exchange Commission. Your
15 Honor, today's hearing went longer than we anticipated and
16 neither Miss Scheuer or I made accommodations for tonight
17 and we have travel arrangements back out of state. We'd
18 like to request to participate in tomorrow's hearing through
19 Court Solutions.

20 THE COURT: All right. I'll grant that request.

21 MR. UPTEGROVE: And just one --

22 THE COURT: You have no evidence to offer, right?

23 MR. UPTEGROVE: No, Your Honor. And just one
24 other logistical point is that we should be able to make --
25 just to confirm, we should be able to make same day Court

1 Solution arrangements tomorrow?

2 THE COURT: I sure understand you can, and if you
3 have any difficulties, speak to our chamber staff and I'm
4 sure we can give you the assistance you need. Thank you.

5 All right, we'll see everybody tomorrow.

6 (Whereupon these proceedings were concluded at
7 6:53 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing

record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

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Mineola, NY 11501

Date: March 6, 2023

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